

1 AN ACT relating to the Kentucky Public Pensions Authority and declaring an
2 emergency.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 16.582 is amended to read as follows:

5 (1) (a) Total and permanent disability means a disability which results in the
6 member's incapacity to engage in any occupation for remuneration or profit.

7 Loss by severance of both hands at or above the wrists, or both feet at or
8 above the ankles, or one (1) hand above the wrist and one (1) foot above the
9 ankle, or the complete, irrevocable loss of the sight of both eyes shall be
10 considered as total and permanent.

11 (b) Hazardous disability means a disability which results in the member's total
12 incapacity to continue as a regular full-time officer or as an employee in a
13 hazardous position, as defined in KRS 61.592, but which does not result in the
14 member's total and permanent incapacity to engage in other occupations for
15 remuneration or profit.

16 (c) In determining whether the disability meets the requirement of this section,
17 any reasonable accommodation provided by the employer as provided in 42
18 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.

19 (d) If the board determines that the total and permanent disability of a member
20 receiving a retirement allowance under this section has ceased, then the board
21 shall determine if the member has a hazardous disability.

22 (2) Any person may qualify to retire on disability, subject to the following:

23 (a) The person shall have sixty (60) months of service, twelve (12) of which shall
24 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The
25 service requirement shall be waived if the disability is a total and permanent
26 disability or a hazardous disability and is a direct result of an act in line of
27 duty;

- 1 (b) For a person whose membership date is prior to August 1, 2004, the person
2 shall not be eligible for an unreduced retirement allowance;
- 3 (c) The person's application shall be on file in the retirement office no later than
4 twenty-four (24) months after the person's last day of paid employment, as
5 defined in KRS 16.505, as a regular full-time officer or in a regular full-time
6 hazardous position under KRS 61.592;
- 7 (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;
8 and
- 9 (e) A person's disability application based on the same claim of incapacity shall
10 be accepted and reconsidered for disability if accompanied by new objective
11 medical evidence. The application shall be on file in the retirement office no
12 later than twenty-four (24) months after the person's last day of paid
13 employment as a regular full-time officer or in a regular full-time hazardous
14 position.
- 15 (3) Upon the examination of the objective medical evidence by licensed physicians
16 pursuant to KRS 61.665, it shall be determined that:
- 17 (a) The incapacity results from bodily injury, mental illness, or disease. For
18 purposes of this section, "injury" means any physical harm or damage to the
19 human organism other than disease or mental illness;
- 20 (b) The incapacity is deemed to be permanent; and
- 21 (c) The incapacity does not result directly or indirectly from:
- 22 1. Injury intentionally self-inflicted while sane or insane; or
- 23 2. Bodily injury, mental illness, disease, or condition which pre-existed
24 membership in the system or reemployment, whichever is most recent,
25 unless:
- 26 a. The disability results from bodily injury, mental illness, disease, or
27 a condition which has been substantially aggravated by an injury or

1 accident arising out of or in the course of employment; or

- 2 b. The person has at least sixteen (16) years' current or prior service
3 for employment with employers participating in the retirement
4 systems administered by the Kentucky Retirement Systems or the
5 County Employees Retirement System.

6 For purposes of this subparagraph, "reemployment" shall not mean a
7 change of employment between employers participating in the
8 retirement systems administered by the Kentucky Retirement Systems or
9 the County Employees Retirement System with no loss of service credit.

- 10 (4) (a) 1. An incapacity shall be deemed to be permanent for the purpose of
11 hazardous disability if it is expected to result in death or can be
12 expected to last for a continuous period of not less than twelve (12)
13 months from the person's last day of paid employment in a position as a
14 regular full-time officer or a hazardous position.

- 15 2. The determination of a permanent incapacity for the purpose of
16 hazardous disability shall be based on the medical evidence contained
17 in the member's file and the member's residual functional capacity and
18 physical exertion requirements.

- 19 3. The determination of a total and permanent incapacity shall be based
20 on the medical evidence contained in the member's file and the
21 member's residual functional capacity.

- 22 (b) The person's residual functional capacity shall be the person's capacity for
23 work activity on a regular and continuing basis. The person's physical ability
24 shall be assessed in light of the severity of the person's physical, mental, and
25 other impairments. The person's ability to walk, stand, carry, push, pull, reach,
26 handle, and other physical functions shall be considered with regard to
27 physical impairments. The person's ability to understand, remember, and carry

1 out instructions and respond appropriately to supervision, coworkers, and
2 work pressures in a work setting shall be considered with regard to mental
3 impairments. Other impairments, including skin impairments, epilepsy, visual
4 sensory impairments, postural and manipulative limitations, and
5 environmental restrictions, shall be considered in conjunction with the
6 person's physical and mental impairments to determine residual functional
7 capacity.

8 (c) The person's physical exertion requirements shall be determined based on the
9 following standards:

- 10 1. Sedentary work shall be work that involves lifting no more than ten (10)
11 pounds at a time and occasionally lifting or carrying articles such as
12 large files, ledgers, and small tools. Although a sedentary job primarily
13 involves sitting, occasional walking and standing may also be required
14 in the performance of duties.
- 15 2. Light work shall be work that involves lifting no more than twenty (20)
16 pounds at a time with frequent lifting or carrying of objects weighing up
17 to ten (10) pounds. A job shall be in this category if lifting is
18 infrequently required but walking and standing are frequently required,
19 or if the job primarily requires sitting with pushing and pulling of arm or
20 leg controls. If the person has the ability to perform substantially all of
21 these activities, the person shall be deemed capable of light work. A
22 person deemed capable of light work shall be deemed capable of
23 sedentary work unless the person has additional limitations such as the
24 loss of fine dexterity or inability to sit for long periods.
- 25 3. Medium work shall be work that involves lifting no more than fifty (50)
26 pounds at a time with frequent lifting or carrying of objects weighing up
27 to twenty-five (25) pounds. If the person is deemed capable of medium

1 work, the person shall be deemed capable of light and sedentary work.

2 4. Heavy work shall be work that involves lifting no more than one
3 hundred (100) pounds at a time with frequent lifting or carrying of
4 objects weighing up to fifty (50) pounds. If the person is deemed capable
5 of heavy work, the person shall also be deemed capable of medium,
6 light, and sedentary work.

7 5. Very heavy work shall be work that involves lifting objects weighing
8 more than one hundred (100) pounds at a time with frequent lifting or
9 carrying of objects weighing fifty (50) or more pounds. If the person is
10 deemed capable of very heavy work, the person shall be deemed capable
11 of heavy, medium, light, and sedentary work.

12 (5) (a) The disability retirement allowance shall be determined as provided in KRS
13 16.576, except if the member's total service credit on his or her last day of
14 paid employment in a regular full-time position is less than twenty (20) years,
15 service shall be added beginning with his or her last date of paid employment
16 and continuing to his or her fifty-fifth birthday. The maximum service credit
17 added shall not exceed the total service the member had on his or her last day
18 of paid employment, and the maximum service credit for calculating his or her
19 retirement allowance, including his or her total service and service added
20 under this section, shall not exceed twenty (20) years.

21 (b) For a member whose participation begins on or after August 1, 2004, but prior
22 to January 1, 2014, the disability retirement allowance shall be the higher of
23 twenty-five percent (25%) of the member's monthly final rate of pay or the
24 retirement allowance determined in the same manner as for retirement at his
25 or her normal retirement date with years of service and final compensation
26 being determined as of the date of his disability.

27 (c) For a member who begins participating on or after January 1, 2014, in the

1 hybrid cash balance plan as provided by KRS 16.583, the disability retirement
2 allowance shall be the higher of twenty-five percent (25%) of the member's
3 monthly final rate of pay or the retirement allowance determined in the same
4 manner as for retirement at his or her normal retirement date under KRS
5 16.583.

6 (6) If the member receives a satisfactory determination of hazardous disability pursuant
7 to KRS 61.665 and the disability is the direct result of an act in line of duty as
8 defined in KRS 16.505, the member's retirement allowance shall be calculated as
9 follows:

10 (a) For the disabled member, benefits as provided in subsection (5) of this section
11 except that the monthly retirement allowance payable shall not be less than
12 twenty-five percent (25%) of the member's monthly final rate of pay; and

13 (b) For each dependent child of the member on his or her disability retirement
14 date, who is alive at the time any particular payment is due, a monthly
15 payment equal to ten percent (10%) of the disabled member's monthly final
16 rate of pay; however, total maximum dependent children's benefit shall not
17 exceed forty percent (40%) of the member's monthly final rate of pay. The
18 payments shall be payable to each dependent child, or to a legally appointed
19 guardian or as directed by the system.

20 (7) If the member receives a satisfactory determination of total and permanent disability
21 pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty
22 as defined in KRS 16.505, the member's retirement allowance shall be calculated as
23 follows:

24 (a) For the disabled member, the benefits as provided in subsection (5) of this
25 section except that the monthly retirement allowance payable shall not be less
26 than seventy-five percent (75%) of the member's monthly average pay; and

27 (b) For each dependent child of the member on his or her disability retirement

1 date, who is alive at the time any particular payment is due, a monthly
2 payment equal to ten percent (10%) of the disabled member's monthly average
3 pay, except that:

4 1. Member and dependent children payments under this subsection shall
5 not exceed one hundred percent (100%) of the member's monthly
6 average pay; and

7 2. Total maximum dependent children's benefits shall not exceed twenty-
8 five percent (25%) of the member's monthly average pay while the
9 member is living and forty percent (40%) of the member's monthly
10 average pay after the member's death. The payments shall be payable to
11 each dependent child, or to a legally appointed guardian or as directed by
12 the system, and shall be divided equally among all dependent children.

13 (8) No benefit provided in this section shall be reduced as a result of any change in the
14 extent of disability of any retired member who is the age of normal retirement ~~age~~
15 ~~fifty-five (55)~~ or older.

16 (9) If a regular full-time officer or hazardous position member has been approved for
17 benefits under a hazardous disability, the board shall, upon request of the member,
18 permit the member to receive the hazardous disability allowance while accruing
19 benefits in a nonhazardous position, subject to proper medical review of the
20 nonhazardous position's job description by the system's medical examiner.

21 (10) For a member of the State Police Retirement System, in lieu of the allowance
22 provided in subsection (5) to (7) of this section, the member may be retained on the
23 regular payroll and receive the compensation authorized by KRS 16.165, if he or
24 she is qualified.

25 ➔Section 2. KRS 61.505 is amended to read as follows:

26 (1) There is created an eight (8) member Kentucky Public Pensions Authority whose
27 purpose shall be to administer and operate:

- 1 (a) A single personnel system for the staffing needs of the Kentucky Retirement
2 Systems and the County Employees Retirement System;
- 3 (b) A system of accounting that is developed by the Authority for the Kentucky
4 Retirement Systems and the County Employees Retirement System;
- 5 (c) Day-to-day administrative needs of the Kentucky Retirement Systems and the
6 County Employees Retirement System, including but not limited to:
- 7 1. Benefit counseling and administration;
- 8 2. Information technology and services, including a centralized Web site
9 for the Authority, the Kentucky Retirement Systems, and the County
10 Employees Retirement System;
- 11 3. Legal services;
- 12 4. Employer reporting and compliance;
- 13 5. Processing and distribution of benefit payments, and other financial,
14 investment administration, and accounting duties as directed by the
15 Kentucky Retirement Systems board of trustees or the County
16 Employees Retirement System board of trustees;
- 17 6. All administrative actions, orders, decisions, and determinations
18 necessary to carry out benefit functions required by the Kentucky
19 Retirement Systems and the County Employment Retirement System
20 statutes, including but not limited to administration of reduced and
21 unreduced retirement benefits, disability retirement, reemployment after
22 retirement, service purchases, computation of sick-leave credit costs,
23 correction of system records, qualified domestic relations orders, and
24 pension spiking determinations~~[-, and all other administrative decisions~~
25 ~~and orders]; and~~
- 26 7. Completing and compiling financial data and reports;
- 27 (d) Any jointly held assets used for the administration of the Kentucky Retirement

- 1 Systems and the County Employees Retirement System, including but not
2 limited to real estate, office space, equipment, and supplies;
- 3 (e) **The** hiring **of** a single actuarial consulting firm who shall serve both the
4 Kentucky Retirement Systems and the County Employees Retirement System;
- 5 (f) **The hiring of a single external certified public accountant who shall**
6 **perform audits for both the Kentucky Retirement Systems and the County**
7 **Employees Retirement System;**
- 8 (g) The **promulgation of**~~Authority may promulgate~~ administrative regulations
9 as an authority or on behalf of the Kentucky Retirement Systems and the
10 County Employees Retirement System, individually or collectively, provided
11 such regulations are not inconsistent with the provisions of this section and
12 KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852,
13 necessary or proper in order to carry out the provisions of this section and
14 duties authorized by KRS 16.505 to 16.652 and 61.510 to 61.705;
- 15 (h)~~(g)~~ **A system of** contracting management for administrative services; and
- 16 (i)~~(h)~~ Other tasks or duties as directed solely or jointly by the boards of the
17 Kentucky Retirement Systems or the County Employees Retirement System.
- 18 (2) The eight (8) member Kentucky Public Pensions Authority shall be composed of
19 the following individuals:
- 20 (a) The chair of the Kentucky Retirement Systems board of trustees;
- 21 (b) The chair of the County Employees Retirement System board of trustees;
- 22 (c) The investment committee chair of the Kentucky Retirement Systems board of
23 trustees, unless the investment committee chair is also the chair of the board
24 of trustees in which case the chair of the Kentucky Retirement Systems shall
25 appoint an individual who serves on the investment committee;
- 26 (d) The investment committee chair of the County Employees Retirement System
27 board of trustees, unless the investment committee chair is also the chair of

1 the County Employees Retirement System board of trustees in which case the
2 chair of the County Employees Retirement System shall appoint an individual
3 who serves on the investment committee;

4 (e) Two additional (2) trustees of the Kentucky Retirement Systems board of
5 trustees selected by the chair of the Kentucky Retirement Systems board of
6 trustees of which one (1) shall be a trustee who was elected by the
7 membership of one (1) of the systems administered by Kentucky Retirement
8 Systems and one (1) shall be a trustee of Kentucky Retirement Systems who
9 was appointed by the Governor; and

10 (f) Two additional (2) trustees of the County Employees Retirement System
11 board of trustees selected by the chair of the County Employees Retirement
12 System board of trustees of which one (1) shall be a trustee who was elected
13 by the membership of the County Employees Retirement System and one (1)
14 shall be a trustee of the County Employees Retirement System who was
15 appointed by the Governor.

16 (3) The Kentucky Public Pensions Authority is hereby granted the powers and
17 privileges of a corporation, including but not limited to the following powers:

18 (a) To sue and be sued in its corporate name;

19 (b) To make bylaws not inconsistent with the law and in accordance with its
20 duties as provided by this section;

21 (c) To conduct the business and promote the purposes for which it was formed;

22 (d) To carry out the obligations of the Authority subject to KRS Chapters 45,
23 45A, 56, and 57;

24 (e) To purchase fiduciary liability insurance; and

25 (f) The Kentucky Public Pensions Authority shall reimburse any Authority
26 member, officer, or employee for any legal expense resulting from a civil
27 action arising out of the performance of his or her official duties. The hourly

1 rate of reimbursement for any contract for legal services under this paragraph
2 shall not exceed the maximum hourly rate provided in the Legal Services
3 Duties and Maximum Rate Schedule promulgated by the Government
4 Contract Review Committee established pursuant to KRS 45A.705, unless a
5 higher rate is specifically approved by the secretary of the Finance and
6 Administration Cabinet or his or her designee.

7 (4) Any vacancy which may occur in an appointed position on the Kentucky Public
8 Pensions Authority shall be filled in the same manner which provides for the
9 selection of the particular member of the Authority. No person shall serve in more
10 than one (1) position as a member of the Authority and if a person holds more than
11 one (1) position as a member of the Authority, he or she shall resign a position.

12 (5) (a) Membership on the Authority shall not be incompatible with any other office
13 unless a constitutional incompatibility exists. No Authority member shall
14 serve in more than one (1) position as a member of the Authority.

15 (b) An Authority member shall be removed from office upon conviction of a
16 felony or for a finding of a violation of any provision of KRS 11A.020 or
17 11A.040 by a court of competent jurisdiction.

18 (c) A current or former employee of the County Employees Retirement System,
19 Kentucky Retirement Systems, or the Kentucky Public Pensions Authority
20 shall not be eligible to serve as a member of the Authority.

21 (6) Kentucky Public Pensions Authority members who do not otherwise receive a
22 salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for
23 each day they are in session or on official duty, and they shall be reimbursed for
24 their actual and necessary expenses in accordance with state administrative
25 regulations and standards, except that the members shall not receive a per diem or
26 receive reimbursements on the same day they receive a per diem or reimbursements
27 for service to the Kentucky Retirement Systems board of trustees or County

1 Employees Retirement Systems board of trustees.

2 (7) (a) The Authority shall meet at least once in each quarter of the year and may
3 meet in special session upon the call of the chair or the executive director of
4 the Authority.

5 (b) The Authority shall elect a chair and a vice chair. The chair shall not serve
6 more than four (4) consecutive years as chair or vice chair of the Authority.
7 The vice chair shall not serve more than four (4) consecutive years as chair or
8 vice chair of the Authority. A member who has served four (4) consecutive
9 years as chair or vice chair of the Authority may be elected chair or vice chair
10 of the Authority after an absence of two (2) years from the positions.

11 (c) A majority of the Authority members shall constitute a quorum and all actions
12 taken by the Authority shall be by affirmative vote of a majority of the
13 Authority members present.

14 (d) The Authority shall post on the Authority's Web site and shall make available
15 to the public:

16 1. All meeting notices and agendas of the Authority. Notices and agendas
17 shall be posted to the Authority's Web site at least seventy-two (72)
18 hours in advance of the Authority's meetings, except in the case of
19 special or emergency meetings as provided by KRS 61.823;

20 2. All Authority minutes or other materials that require adoption or
21 ratification by the Authority. The items listed in this subparagraph shall
22 be posted within seventy-two (72) hours of adoption or ratification of
23 the Authority;

24 3. All bylaws, policies, or procedures adopted or ratified by the Authority;
25 and

26 4. A listing of the members of the Authority and membership on each
27 committee established by the Authority.

- 1 (8) (a) The Kentucky Public Pensions Authority shall appoint or contract for the
2 services of an executive director and fix the compensation and other terms of
3 employment for this position without limitation of the provisions of KRS
4 Chapter 18A, 45A, and KRS 64.640. The executive director shall be the chief
5 administrative officer of the Authority, the Kentucky Retirement Systems
6 board of trustees, and the County Employees Retirement System board of
7 trustees. The executive director shall work cooperatively with the chief
8 executive officers of the Kentucky Retirement Systems and the County
9 Employees Retirement System. The Authority shall annually conduct a
10 performance evaluation of the executive director.
- 11 (b) The Kentucky Public Pensions Authority shall authorize the executive director
12 to appoint the employees deemed necessary to transact the duties of the
13 Authority for the purposes outlined in subsection (1) of this section. After the
14 effective date of this Act, approval by the Authority shall be required for a
15 petition to the secretary of the Personnel Cabinet for the creation of any
16 new unclassified position pursuant to KRS 18A.115(1)(e), (g), (h), and (i).
- 17 (c) Effective April 1, 2021, the Kentucky Public Pensions Authority shall assume
18 responsibility of administering the staff of the Kentucky Retirement Systems
19 in order to provide the services established by this section.
- 20 (d) 1. All employees of the Kentucky Public Pensions Authority, except for the
21 executive director and no more than six (6) unclassified employees of
22 the Office of Investments employed pursuant to KRS 18A.115(1)(e),
23 (g), (h), and (i) ~~[, chief investment officer, and one (1) deputy chief~~
24 ~~investment officer]~~, shall be subject to the state personnel system
25 established pursuant to KRS 18A.005 to 18A.204 and shall have their
26 salaries determined by the secretary of the Personnel Cabinet.
- 27 2. The employees exempted from the classified service under this

1 paragraph shall not be subject to the salary limitations specified in
2 KRS 64.640(2) and (3).

3 3. The Kentucky Public Pensions Authority shall adopt a written salary
4 and classification plan fixing a range of compensation and written
5 terms of employment for any of the unclassified employees of the
6 Office of Investments it authorizes under this paragraph. The
7 Authority shall authorize the executive director to appoint up to six (6)
8 unclassified employees of the Office of Investments subject to the
9 compensation ranges and terms of employment the Authority has
10 established. The Authority may amend the written salary and
11 classification plan adopted under this paragraph at any time.

12 (e) The Authority shall annually review, approve, and submit a report to the
13 Public Pension Oversight Board detailing the number of employees of the
14 Authority, the salary paid to each employee, and the change in the salaries of
15 each individual employed by the Authority over the prior year.

16 (f) The Authority shall require the executive director and the employees as it
17 thinks proper to execute bonds for the faithful performance of their duties
18 notwithstanding the limitations of KRS Chapter 62.

19 (g) Notwithstanding any other provision of statute to the contrary, including but
20 not limited to any provision of KRS Chapter 12, the Governor shall have no
21 authority to change any provision of this section by executive order or action,
22 including but not limited to reorganizing, replacing, amending, or abolishing
23 the membership of the Kentucky Public Pensions Authority.

24 (9) All employees of the Authority shall serve during its will and pleasure.
25 Notwithstanding any statute to the contrary, employees shall not be considered
26 legislative agents under KRS 6.611.

27 (10) The Attorney General, or an assistant designated by him or her, may attend each

1 meeting of the Authority and may receive the agenda, board minutes, and other
2 information distributed to Authority members upon request. The Attorney General
3 may act as legal adviser and attorney for the Authority, and the Authority may
4 contract for legal services, notwithstanding the limitations of KRS Chapter 12 or
5 13B.

6 (11) (a) 1. All expenses incurred by or on behalf of the Kentucky Public Pensions
7 Authority shall be paid by the systems administered by the Kentucky
8 Retirement Systems or the County Employees Retirement System and
9 shall be prorated, assigned, or allocated to each system as determined by
10 Kentucky Public Pensions Authority.

11 2. Until June 30, 2024, any additional initial costs determined by the
12 authority to be attributable solely to establishing a separate County
13 Employees Retirement System board and the Kentucky Public Pensions
14 Authority as provided by this section and KRS 78.782 shall be paid by
15 the County Employees Retirement System. Until June 30, 2024, any
16 additional ongoing annual administrative and investment expenses that
17 occur after the establishment of a separate County Employees
18 Retirement System board and the Kentucky Public Pensions Authority
19 that are determined by the authority to be a direct result of establishing a
20 separate County Employees Retirement System board and the Kentucky
21 Public Pensions Authority shall be paid by the County Employees
22 Retirement System. Beginning on and after July 1, 2024, any annual
23 administrative and investment expenses shall be prorated, assigned, or
24 allocated to each system as determined by the Kentucky Public
25 Pensions Authority as provided by subparagraph 1. of this paragraph
26 but without attribution to the establishment of a separate County
27 Employees Retirement System board and the Kentucky Public

1 **Pensions Authority.**

2 (b) Any other statute to the contrary notwithstanding, authorization for all
3 expenditures relating to the administrative operations of the Kentucky Public
4 Pensions Authority, the Kentucky Retirement Systems, and the County
5 Employees Retirement System shall be contained in the biennial budget unit
6 request, branch budget recommendation, and the financial plan adopted by the
7 General Assembly pursuant to KRS Chapter 48. **The Kentucky Public**
8 **Pensions Authority shall approve the biennial budget unit request prior to**
9 **its submission by the Authority.** The request from the Kentucky Public
10 Pensions Authority shall include any specific administrative expenses
11 requested by the Kentucky Retirement Systems board of trustees or the
12 County Employees Retirement System board of trustees pursuant to KRS
13 61.645(13) or 78.782(13), as applicable, that are not otherwise expenses
14 specified by paragraph (a) of this subsection.

15 (12) (a) An Authority member shall discharge his or her duties as a member of the
16 Authority, including his or her duties as a member of a committee of the
17 Authority:

- 18 1. In good faith;
19 2. On an informed basis; and
20 3. In a manner he or she honestly believes to be in the best interest of the
21 County Employees Retirement System and the Kentucky Retirement
22 Systems, as applicable.

23 (b) An Authority member discharges his or her duties on an informed basis if,
24 when he or she makes an inquiry into the business and affairs of the Authority,
25 system, or systems or into a particular action to be taken or decision to be
26 made, he or she exercises the care an ordinary prudent person in a like
27 position would exercise under similar circumstances.

- 1 (c) In discharging his or her duties, an Authority member may rely on
2 information, opinions, reports, or statements, including financial statements
3 and other financial data, if prepared or presented by:
- 4 1. One (1) or more officers or employees of the Authority whom the
5 Authority member honestly believes to be reliable and competent in the
6 matters presented;
- 7 2. Legal counsel, public accountants, actuaries, or other persons as to
8 matters the Authority member honestly believes are within the person's
9 professional or expert competence; or
- 10 3. A committee of the Authority of which he or she is not a member if the
11 Authority member honestly believes the committee merits confidence.
- 12 (d) An Authority member shall not be considered as acting in good faith if he or
13 she has knowledge concerning the matter in question that makes reliance
14 otherwise permitted by paragraph (c) of this subsection unwarranted.
- 15 (e) Any action taken as a member of the Authority, or any failure to take any
16 action as an Authority member, shall not be the basis for monetary damages or
17 injunctive relief unless:
- 18 1. The Authority member has breached or failed to perform the duties of
19 the member's office in compliance with this section; and
- 20 2. In the case of an action for monetary damages, the breach or failure to
21 perform constitutes willful misconduct or wanton or reckless disregard
22 for human rights, safety, or property.
- 23 (f) A person bringing an action for monetary damages under this section shall
24 have the burden of proving by clear and convincing evidence the provisions of
25 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
26 breach or failure to perform was the legal cause of damages suffered by the
27 Kentucky Retirement Systems or County Employees Retirement System, as

1 applicable.

2 (g) In discharging his or her administrative duties under this section, an Authority
3 member shall strive to administer the systems in an efficient and cost-effective
4 manner for the taxpayers of the Commonwealth of Kentucky and shall take all
5 actions available under the law to contain costs for the trusts, including costs
6 for participating employers, members, and retirees.

7 ➔Section 3. KRS 61.510 is amended to read as follows:

8 As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- 9 (1) "System" means the Kentucky Employees Retirement System created by KRS
10 61.510 to 61.705;
- 11 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- 12 (3) "Department" means any state department or board or agency participating in the
13 system in accordance with appropriate executive order, as provided in KRS 61.520.
14 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the
15 General Assembly and any other body, entity, or instrumentality designated by
16 executive order by the Governor, shall be deemed to be a department,
17 notwithstanding whether said body, entity, or instrumentality is an integral part of
18 state government;
- 19 (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- 20 (5) "Employee" means the members, officers, and employees of the General Assembly
21 and every regular full-time, appointed or elective officer or employee of a
22 participating department, including the Department of Military Affairs. The term
23 does not include persons engaged as independent contractors, seasonal, emergency,
24 temporary, interim, and part-time workers. In case of any doubt, the board shall
25 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- 26 (6) "Employer" means a department or any authority of a department having the power
27 to appoint or select an employee in the department, including the Senate and the

- 1 House of Representatives, or any other entity, the employees of which are eligible
2 for membership in the system pursuant to KRS 61.525;
- 3 (7) "State" means the Commonwealth of Kentucky;
- 4 (8) "Member" means any employee who is included in the membership of the system or
5 any former employee whose membership has not been terminated under KRS
6 61.535;
- 7 (9) "Service" means the total of current service and prior service as defined in this
8 section;
- 9 (10) "Current service" means the number of years and months of employment as an
10 employee, on and after July 1, 1956, except that for members, officers, and
11 employees of the General Assembly this date shall be January 1, 1960, for which
12 creditable compensation is paid and employee contributions deducted, except as
13 otherwise provided, and each member, officer, and employee of the General
14 Assembly shall be credited with a month of current service for each month he
15 serves in the position;
- 16 (11) "Prior service" means the number of years and completed months, expressed as a
17 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
18 creditable compensation was paid; except that for members, officers, and employees
19 of the General Assembly, this date shall be January 1, 1960. An employee shall be
20 credited with one (1) month of prior service only in those months he received
21 compensation for at least one hundred (100) hours of work; provided, however, that
22 each member, officer, and employee of the General Assembly shall be credited with
23 a month of prior service for each month he served in the position prior to January 1,
24 1960. Twelve (12) months of current service in the system are required to validate
25 prior service;
- 26 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
27 from the compensation of a member and credited to his individual account in the

1 members' account, including employee contributions picked up after August 1,
2 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts
3 and any other amounts the member shall have contributed thereto, including interest
4 credited thereon. For members who begin participating on or after September 1,
5 2008, "accumulated contributions" shall not include employee contributions that are
6 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
7 funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

8 (13) "Creditable compensation":

9 (a) Means all salary, wages, tips to the extent the tips are reported for income tax
10 purposes, and fees, including payments for compensatory time, paid to the
11 employee as a result of services performed for the employer or for time during
12 which the member is on paid leave, which are includable on the member's
13 federal form W-2 wage and tax statement under the heading "wages, tips,
14 other compensation," including employee contributions picked up after
15 August 1, 1982, pursuant to KRS 61.560(4). For members of the General
16 Assembly, it shall mean all amounts which are includable on the member's
17 federal form W-2 wage and tax statement under the heading "wages, tips,
18 other compensation," including employee contributions picked up after
19 August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);

20 (b) Includes:

- 21 1. Lump-sum bonuses, severance pay, or employer-provided payments for
22 purchase of service credit, which shall be averaged over the employee's
23 total service with the system in which it is recorded if it is equal to or
24 greater than one thousand dollars (\$1,000);
- 25 2. Cases where compensation includes maintenance and other perquisites,
26 but the board shall fix the value of that part of the compensation not paid
27 in money;

- 1 3. Lump-sum payments for creditable compensation paid as a result of an
2 order of a court of competent jurisdiction, the Personnel Board, or the
3 Commission on Human Rights, or for any creditable compensation paid
4 in anticipation of settlement of an action before a court of competent
5 jurisdiction, the Personnel Board, or the Commission on Human Rights,
6 including notices of violations of state or federal wage and hour statutes
7 or violations of state or federal discrimination statutes, which shall be
8 credited to the fiscal year during which the wages were earned or should
9 have been paid by the employer. This subparagraph shall also include
10 lump-sum payments for reinstated wages pursuant to KRS 61.569,
11 which shall be credited to the period during which the wages were
12 earned or should have been paid by the employer;
- 13 4. Amounts which are not includable in the member's gross income by
14 virtue of the member having taken a voluntary salary reduction provided
15 for under applicable provisions of the Internal Revenue Code; and
- 16 5. Elective amounts for qualified transportation fringes paid or made
17 available on or after January 1, 2001, for calendar years on or after
18 January 1, 2001, that are not includable in the gross income of the
19 employee by reason of 26 U.S.C. sec. 132(f)(4); and
- 20 (c) Excludes:
 - 21 1. Living allowances, expense reimbursements, lump-sum payments for
22 accrued vacation leave, and other items determined by the board;
 - 23 2. For employees who begin participating on or after September 1, 2008,
24 lump-sum payments for compensatory time;
 - 25 3. For employees who begin participating on or after August 1, 2016,
26 nominal fees paid for services as a volunteer; and
 - 27 4. Any salary or wages paid to an employee for services as a Kentucky

1 State Police school resource officer as defined by KRS 158.441;

2 (14) "Final compensation" of a member means:

3 (a) For a member who begins participating before September 1, 2008, who is
4 employed in a nonhazardous position, the creditable compensation of the
5 member during the five (5) fiscal years he or she was paid at the highest
6 average monthly rate divided by the number of months of service credit during
7 that five (5) year period multiplied by twelve (12). The five (5) years may be
8 fractional and need not be consecutive. If the number of months of service
9 credit during the five (5) year period is less than forty-eight (48), one (1) or
10 more additional fiscal years shall be used;

11 (b) For a member who is employed in a nonhazardous position, whose effective
12 retirement date is between August 1, 2001, and January 1, 2009, and whose
13 total service credit is at least twenty-seven (27) years and whose age and years
14 of service total at least seventy-five (75), final compensation means the
15 creditable compensation of the member during the three (3) fiscal years the
16 member was paid at the highest average monthly rate divided by the number
17 of months of service credit during that three (3) years period multiplied by
18 twelve (12). The three (3) years may be fractional and need not be
19 consecutive. If the number of months of service credit during the three (3)
20 year period is less than twenty-four (24), one (1) or more additional fiscal
21 years shall be used. Notwithstanding the provision of KRS 61.565, the
22 funding for this paragraph shall be provided from existing funds of the
23 retirement allowance;

24 (c) For a member who begins participating before September 1, 2008, who is
25 employed in a hazardous position, as provided in KRS 61.592, the creditable
26 compensation of the member during the three (3) fiscal years he or she was
27 paid at the highest average monthly rate divided by the number of months of

1 service credit during that three (3) year period multiplied by twelve (12). The
2 three (3) years may be fractional and need not be consecutive. If the number of
3 months of service credit during the three (3) year period is less than twenty-
4 four (24), one (1) or more additional fiscal years shall be used;

5 (d) For a member who begins participating on or after September 1, 2008, but
6 prior to January 1, 2014, who is employed in a nonhazardous position, the
7 creditable compensation of the member during the five (5) complete fiscal
8 years immediately preceding retirement divided by five (5). Each fiscal year
9 used to determine final compensation must contain twelve (12) months of
10 service credit. If the member does not have five (5) complete fiscal years that
11 each contain twelve (12) months of service credit, then one (1) or more
12 additional fiscal years, which may contain less than twelve (12) months of
13 service credit, shall be added until the number of months in the final
14 compensation calculation is at least sixty (60) months; or

15 (e) For a member who begins participating on or after September 1, 2008, but
16 prior to January 1, 2014, who is employed in a hazardous position as provided
17 in KRS 61.592, the creditable compensation of the member during the three
18 (3) complete fiscal years he or she was paid at the highest average monthly
19 rate divided by three (3). Each fiscal year used to determine final
20 compensation must contain twelve (12) months of service credit. If the
21 member does not have three (3) complete fiscal years that each contain twelve
22 (12) months of service credit, then one (1) or more additional fiscal years,
23 which may contain less than twelve (12) months of service credit, shall be
24 added until the number of months in the final compensation calculation is at
25 least thirty-six (36) months;

26 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
27 calculated during the twelve (12) month period immediately preceding the

1 member's effective retirement date, including employee contributions picked up
2 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the
3 system by the employer and the following equivalents shall be used to convert the
4 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
5 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour
6 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,
7 one (1) year;

8 (16) "Retirement allowance" means the retirement payments to which a member is
9 entitled;

10 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
11 basis of the actuarial tables that are adopted by the board. In cases of disability
12 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
13 (10) years to the age of the member, unless the member has chosen the Social
14 Security adjustment option as provided for in KRS 61.635(8), in which case the
15 member's actual age shall be used. For members who began participating in the
16 system prior to January 1, 2014, no disability retirement option shall be less than the
17 same option computed under early retirement;

18 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
19 otherwise provided in KRS 61.510 to 61.705;

20 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
21 following June 30, which shall also be the plan year. The "fiscal year" shall be the
22 limitation year used to determine contribution and benefit limits as established by
23 26 U.S.C. sec. 415;

24 (20) "Officers and employees of the General Assembly" means the occupants of those
25 positions enumerated in KRS 6.150. The term shall also apply to assistants who
26 were employed by the General Assembly for at least one (1) regular legislative
27 session prior to July 13, 2004, who elect to participate in the retirement system, and

1 who serve for at least six (6) regular legislative sessions. Assistants hired after July
2 13, 2004, shall be designated as interim employees;

3 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
4 all positions that average one hundred (100) or more hours per month determined by
5 using the number of months actually worked within a calendar or fiscal year,
6 including all positions except:

7 (a) Seasonal positions, which although temporary in duration, are positions which
8 coincide in duration with a particular season or seasons of the year and which
9 may recur regularly from year to year, the period of time shall not exceed nine
10 (9) months;

11 (b) Emergency positions which are positions utilized by the employer during:

12 1. An emergency as determined by the employer for a period~~[which do]~~
13 ~~not exceeding~~~~[exceed]~~ thirty (30) working days and are nonrenewable;

14 or

15 2. A state of emergency declared by the President of the United States or
16 the Governor of the Commonwealth of Kentucky that are created or
17 filled specifically for addressing the employer's needs during and as a
18 result of the declared emergency;

19 (c) Temporary positions which are positions of employment with a participating
20 department for a period of time not to exceed nine (9) months and are
21 nonrenewable;

22 (d) Part-time positions which are positions which may be permanent in duration,
23 but which require less than a calendar or fiscal year average of one hundred
24 (100) hours of work per month, determined by using the number of months
25 actually worked within a calendar or fiscal year, in the performance of duty;
26 and

27 (e) Interim positions which are positions established for a one-time or recurring

1 need not to exceed nine (9) months;

2 (22) "Vested" for purposes of determining eligibility for purchasing service credit under
3 KRS 61.552 means the employee has at least forty-eight (48) months of service if
4 age sixty-five (65) or older or at least sixty (60) months of service if under the age
5 of sixty-five (65). For purposes of this subsection, "service" means service in the
6 systems administered by the Kentucky Retirement Systems and County Employees
7 Retirement System;

8 (23) "Parted employer" means a department, portion of a department, board, or agency,
9 such as Outwood Hospital and School, which previously participated in the system,
10 but due to lease or other contractual arrangement is now operated by a publicly held
11 corporation or other similar organization, and therefore is no longer participating in
12 the system. The term "parted employer" shall not include a department, board, or
13 agency that ceased participation in the system pursuant to KRS 61.522;

14 (24) "Retired member" means any former member receiving a retirement allowance or
15 any former member who has filed the necessary documents for retirement benefits
16 and is no longer contributing to the retirement system;

17 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
18 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
19 pay. The rate shall be certified by the employer;

20 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by
21 the member in accordance with KRS 61.542 or 61.705 to receive any available
22 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"
23 does not mean an estate, trust, or trustee;

24 (27) "Recipient" means the retired member or the person or persons designated as
25 beneficiary by the member and drawing a retirement allowance as a result of the
26 member's death or a dependent child drawing a retirement allowance. An alternate
27 payee of a qualified domestic relations order shall not be considered a recipient,

- 1 except for purposes of KRS 61.623;
- 2 (28) "Level percentage of payroll amortization method" means a method of determining
3 the annual amortization payment on the unfunded actuarial accrued liability as
4 expressed as a percentage of payroll over a set period of years but that may be
5 converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method,
6 the percentage of payroll shall be projected to remain constant for all years
7 remaining in the set period of time and the unfunded actuarially accrued liability
8 shall be projected to be fully amortized at the conclusion of the set period of years;
- 9 (29) "Increment" means twelve (12) months of service credit which are purchased. The
10 twelve (12) months need not be consecutive. The final increment may be less than
11 twelve (12) months;
- 12 (30) "Person" means a natural person;
- 13 (31) "Retirement office" means the Kentucky Public Pensions Authority's office building
14 in Frankfort, unless otherwise designated by the Kentucky Public Pensions
15 Authority;
- 16 (32) "Last day of paid employment" means the last date employer and employee
17 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
18 78.615 to the retirement office in order for the employee to receive current service
19 credit for the month. Last day of paid employment does not mean a date the
20 employee receives payment for accrued leave, whether by lump sum or otherwise, if
21 that date occurs twenty-four (24) or more months after previous contributions;
- 22 (33) "Objective medical evidence" means reports of examinations or treatments; medical
23 signs which are anatomical, physiological, or psychological abnormalities that can
24 be observed; psychiatric signs which are medically demonstrable phenomena
25 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
26 or contact with reality; or laboratory findings which are anatomical, physiological,
27 or psychological phenomena that can be shown by medically acceptable laboratory

1 diagnostic techniques, including but not limited to chemical tests,
2 electrocardiograms, electroencephalograms, X-rays, and psychological tests.

3 **"Objective medical evidence" shall not mean the testimonial statements of the**
4 **person applying for disability retirement;**

5 (34) "Participating" means an employee is currently earning service credit in the system
6 as provided in KRS 61.543;

7 (35) "Month" means a calendar month;

8 (36) "Membership date" means:

9 (a) The date upon which the member began participating in the system as
10 provided in KRS 61.543; or

11 (b) For a member electing to participate in the system pursuant to KRS
12 196.167(4) who has not previously participated in the system or the Kentucky
13 Teachers' Retirement System, the date the member began participating in a
14 defined contribution plan that meets the requirements of 26 U.S.C. sec.
15 403(b);

16 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
17 retired member, as defined by subsection (24) of this section;

18 (38) "Qualified domestic relations order" means any judgment, decree, or order,
19 including approval of a property settlement agreement, that:

20 (a) Is issued by a court or administrative agency; and

21 (b) Relates to the provision of child support, alimony payments, or marital
22 property rights to an alternate payee;

23 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
24 participant, who is designated to be paid retirement benefits in a qualified domestic
25 relations order;

26 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
27 member's account and interest credited on such amounts as provided by KRS

1 16.583 and 61.597;

2 (41) "Accumulated account balance" means:

3 (a) For members who began participating in the system prior to January 1, 2014,
4 the member's accumulated contributions; or

5 (b) For members who began participating in the system on or after January 1,
6 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
7 the combined sum of the member's accumulated contributions and the
8 member's accumulated employer credit;

9 (42) "Volunteer" means an individual who:

10 (a) Freely and without pressure or coercion performs hours of service for an
11 employer participating in one (1) of the systems administered by Kentucky
12 Retirement Systems without receipt of compensation for services rendered,
13 except for reimbursement of actual expenses, payment of a nominal fee to
14 offset the costs of performing the voluntary services, or both; and

15 (b) If a retired member, does not become an employee, leased employee, or
16 independent contractor of the employer for which he or she is performing
17 volunteer services for a period of at least twelve (12) months following the
18 retired member's most recent retirement date;

19 (43) "Nominal fee" means compensation earned for services as a volunteer that does not
20 exceed five hundred dollars (\$500) per month. Compensation earned for services as
21 a volunteer from more than one (1) participating employer during a month shall be
22 aggregated to determine whether the compensation exceeds the five hundred dollars
23 (\$500) per month maximum provided by this subsection;

24 (44) "Nonhazardous position" means a position that does not meet the requirements of
25 KRS 61.592 or has not been approved by the board as a hazardous position;

26 (45) "Monthly average pay" means:

27 (a) In the case of a member who dies as a direct result of an act in line of duty as

1 defined in KRS 16.505 or who dies as a result of a duty-related injury as
2 defined in KRS 61.621, the higher of the member's monthly final rate of pay
3 or the average monthly creditable compensation earned by the deceased
4 member during his or her last twelve (12) months of employment; or

5 (b) In the case where a member becomes totally and permanently disabled as a
6 direct result of an act in line of duty as defined in KRS 16.505 or becomes
7 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
8 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
9 member's monthly final rate of pay or the average monthly creditable
10 compensation earned by the disabled member during his or her last twelve
11 (12) months of employment prior to the date the act in line of duty or duty-
12 related injury occurred;

13 (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
14 61.505;~~and~~

15 (47) "Executive director" means the executive director of the Kentucky Public Pensions
16 Authority; and

17 (48) "Instructional staff" means the employees of a state college or university
18 participating under Section 4 of this Act who are:

19 (a) Faculty;

20 (b) Staff responsible for teaching; or

21 (c) Other individuals employed in an administrative position that is eligible for
22 participation in the Teachers' Insurance and Annuity Association (TIAA)
23 or the Teachers' Retirement System.

24 ➔Section 4. KRS 61.520 is amended to read as follows:

25 (1) Each department determined by the board to be eligible and qualified for
26 participation shall participate in the system when the Governor by appropriate
27 executive order, the authority to issue such executive order being granted, directs

1 such department to participate in the system. The effective date of such participation
2 shall be determined by the board and fixed by the Governor in his executive order.

3 (2) (a) Notwithstanding the provisions of subsection (1) of this section, the Governor
4 is authorized to permit any state college or university, which he directs by
5 appropriate executive order to participate in the system after January 1, 1972,
6 to include its noninstructional employees in the membership of the system
7 while excluding the instructional employees of the state college or university
8 from membership.

9 (b) All employees of an agency participating under authority of paragraph (a) of
10 this subsection ~~[(2)(a) of this section]~~ shall be considered noninstructional
11 employees except the members of the instructional staff as defined in Section
12 3 of this Act ~~[of the state college or university who are responsible for~~
13 ~~teaching and the administrative positions which are included in the Teachers'~~
14 ~~Insurance and Annuity Association (TIAA) or the Kentucky Teachers'~~
15 ~~Retirement System]~~.

16 (3) All executive orders issued under authority of this section since July 1, 1956, are
17 hereby ratified by the General Assembly and each participating and contributing
18 department, board, agency, corporation, board for mental health or individuals with
19 an intellectual disability, or entity participating since that date under such executive
20 order is hereby declared to be a participating department under the Kentucky
21 Employees Retirement System.

22 (4) Except as provided by KRS 61.522:

23 (a) Once a department participates it shall continue to participate as long as it
24 remains qualified; and

25 (b) Any position initially required to participate in the Kentucky Employees
26 Retirement System shall continue to participate as long as the position exists.

27 ➔Section 5. KRS 61.565 is amended to read as follows:

- 1 (1) (a) Each employer participating in the State Police Retirement System as
2 provided for in KRS 16.505 to 16.652 and the Kentucky Employees
3 Retirement System as provided for in KRS 61.510 to 61.705 shall contribute
4 annually to the respective retirement system an amount determined by the
5 actuarial valuation completed in accordance with KRS 61.670 and as specified
6 by this section. Employer contributions for each respective retirement system
7 shall be equal to the sum of the "normal cost contribution" and the "actuarially
8 accrued liability contribution."
- 9 (b) For purposes of this section, the normal cost contribution shall be computed as
10 a percentage of pay and shall be an annual amount that is sufficient when
11 combined with employee contributions to fund benefits earned during the year
12 in the respective system. The amount shall be:
- 13 1. Paid as a percentage of creditable compensation reported for each
14 employee participating in the system and accruing benefits; and
 - 15 2. The same percentage of pay for all employees who are participating in
16 the same retirement system, except that separate percentage rates shall
17 be developed in each system for those employers whose employees are
18 participating in hazardous duty retirement coverage as provided by KRS
19 61.592.
- 20 (c) For purposes of this section, the actuarially accrued liability contribution for
21 all employers, except for contributions paid by nonhazardous employers in the
22 Kentucky Employees Retirement System on or after July 1, 2021, shall be:
- 23 1. Computed by amortizing the total unfunded actuarially accrued liability
24 of each system over a closed period of thirty (30) years beginning with
25 the 2019 actuarial valuation using the level percentage of payroll
26 amortization method, except that any increase or decrease in the
27 unfunded actuarially accrued liability occurring after the completion of

- 1 the 2019 actuarial valuation shall be amortized over a closed period of
2 twenty (20) years beginning with the actuarial valuation in which the
3 increase or decrease in the unfunded actuarially accrued liability is
4 recognized. An increase or decrease in the unfunded actuarially accrued
5 liability may result from, but not be limited to, legislative changes to
6 benefits, changes in actuarial methods or assumptions, or actuarial gains
7 or losses;
- 8 2. Paid as a percentage of payroll on the creditable compensation reported
9 for each employee participating in the system and accruing benefits; and
10 3. The same percentage of pay for all employees who are participating in
11 the same retirement system, except that separate percentage rates shall
12 be developed in each system for those employers whose employees are
13 participating in hazardous duty retirement coverage as provided by KRS
14 61.592.
- 15 (d) 1. For purposes of this section, the actuarially accrued liability contribution
16 for nonhazardous employers in the Kentucky Employees Retirement
17 System on or after July 1, 2021:
- 18 a. Shall be an annual dollar amount that is sufficient to amortize the
19 total unfunded actuarially accrued liability of the system over a
20 closed period of thirty (30) years beginning with the 2019 actuarial
21 valuation using the level percentage of payroll amortization
22 method, except that any increase or decrease in the unfunded
23 actuarially accrued liability occurring after the completion of the
24 2019 actuarial valuation shall be amortized over a closed period of
25 twenty (20) years beginning with the actuarial valuation in which
26 the increase or decrease in the unfunded actuarially accrued
27 liability is recognized. An increase or decrease in the unfunded

1 actuarially accrued liability may result from but not be limited to
2 legislative changes to benefits, changes in actuarial methods or
3 assumptions, or actuarial gains or losses;

- 4 b. Shall be prorated to each individual nonhazardous employer in the
5 Kentucky Employees Retirement System by multiplying the annual
6 dollar amount of the actuarially accrued liability contribution for
7 the system as determined by subdivision a. of this subparagraph by
8 the individual employer's percentage of the system's total
9 actuarially accrued liability as of the June 30, 2019, actuarial
10 valuation which shall be determined solely by the system's
11 consulting actuary and assigned to each employer based upon the
12 last participating employer of the member or retiree as of June 30,
13 2019. The individual employer's percentage of the system's total
14 actuarially accrued liability as of the June 30, 2019, actuarial
15 valuation shall be used to determine the individual employer's
16 prorated dollar amount of the system's actuarially accrued liability
17 contribution in all future fiscal years of the amortization period or
18 periods, except that the employer's percentage shall be adjusted to
19 reflect any employer who voluntarily or involuntarily ceases
20 participation as provided by KRS 61.522 and except as provided
21 by subparagraphs 4. and 5. of this paragraph. For purposes of this
22 subdivision, all executive branch departments, program cabinets
23 and their respective departments, and administrative bodies
24 enumerated in KRS 12.020, and any other executive branch
25 agencies administratively attached to a department, program
26 cabinet, or administrative body enumerated in KRS 12.020, shall
27 be considered a single individual employer and only one (1) value

1 shall be computed for these executive branch employers. For
2 purposes of this subdivision, all employers of the legislative
3 branch, including the Legislative Research Commission and the
4 General Assembly that covers legislators and staff who participate
5 in the Kentucky Employees Retirement System, shall be
6 considered a single individual employer and only one (1) value
7 shall be computed for these employers. For purposes of this
8 subdivision, all employers of the judicial branch, including the
9 Administrative Office of the Courts, the Judicial Form Retirement
10 System, and all master commissioners, shall be considered a single
11 individual employer and only one (1) value shall be computed for
12 these employers;

13 c. Shall be payable by an individual employer in equal monthly dollar
14 installments during the fiscal year in accordance with the reporting
15 requirements specified by KRS 61.675 so that the individual
16 employer pays its full prorated dollar amount of the actuarially
17 accrued liability contribution as determined by subdivision b. of
18 this subparagraph; and

19 d. Notwithstanding subdivision b. of this subparagraph for those
20 individual participating employers who are local and district health
21 departments governed by KRS Chapter 212, community mental
22 health centers, and employers whose employees are not subject to
23 KRS 18A.005 to 18A.200, who received or were eligible to
24 receive a distribution of general fund appropriations in the 2018-
25 2020 biennial executive branch budget to assist in paying
26 retirement costs under 2018 Ky. Acts ch. 169, Part I, G., 4., (5);
27 2018 Ky. Acts ch. 169, Part I, G., 5., (2); or 2018 Ky. Acts ch. 169,

1 Part I, G., 9., (2), shall not, once the initial dollar amounts are
2 established in accordance with this paragraph, be adjusted in terms
3 of dollars paid by the individual employer, except that adjustments
4 shall be made by the system upon completion of an actuarial
5 investigation as provided by KRS 61.670, so long as at least four
6 (4) years have passed since the last adjustment to the actuarially
7 accrued liability contribution for these employers. The provisions
8 of this subdivision shall not be interpreted to mean that employers
9 described by this subdivision may continue paying the dollar value
10 of contributions or employer contribution rates established or paid
11 by the employer in budget periods occurring prior to July 1, 2021.

- 12 2. Individual employers, solely for purposes of collecting employer
13 contributions from various fund sources during the fiscal year, may
14 convert the actuarially accrued liability contribution established by this
15 paragraph to a percentage of pay and may adjust the percent of pay
16 during the fiscal year in order to pay the required dollar value of
17 actuarially accrued liability contribution required by this paragraph. No
18 provision of this subparagraph shall be construed to reduce an individual
19 employer's actuarially accrued liability contribution as otherwise
20 provided by this paragraph.
- 21 3. The provisions of this paragraph shall not apply to those employers who
22 cease participation as provided by KRS 61.522.
- 23 4. In the event an individual Kentucky Employees Retirement System
24 nonhazardous employer who is required to pay an actuarially accrued
25 liability contribution as provided by this paragraph and as calculated
26 from the 2019 actuarial valuation or subsequent valuations, merges with
27 another employer or entity, forms a new or separate employer or entity,

1 or splits or separates operations into multiple employers or entities, the
2 system shall, except for those employers or entities who pay the costs to
3 cease participation as provided by KRS 61.522, have full authority to
4 assign a portion or all of the total actuarially accrued liability
5 contribution to the merged, new, split, or separate employers or entities,
6 regardless of whether or not the merged, new, split, or separate
7 employers or entities participate in the system. In the case of a district
8 health department established pursuant to KRS Chapter 212, which
9 ceases to operate or which has a county or counties that withdraw from
10 the district health department, the systems shall assign the total
11 actuarially accrued liability contribution based upon the proportion of
12 taxable property of each county as certified by the Department for Public
13 Health in the Cabinet for Health and Family Services in accordance with
14 KRS 212.132. The system shall establish by administrative regulations
15 the process of assigning actuarially accrued liability contributions as
16 authorized by this subparagraph.

- 17 5. a. An employer who is not in the executive, legislative, or judicial
18 branch of Kentucky state government as enumerated in
19 subparagraph 1.b. of this paragraph may on or before July 1, 2021,
20 appeal to the board regarding any current or former employees or
21 retirees the employer believes should not be used to determine the
22 employer's percentage of the system's total actuarially accrued
23 liability. The only appeals that shall be submitted by the employer
24 or considered by the board shall be potential errors where the last
25 participating employer is in dispute, situations where employees of
26 the employer were hired through a contract between the executive
27 branch and the employer for the employee to provide services to

1 the executive branch, or situations where a community mental
2 health center was contracted to provide services at a facility
3 previously operated by the executive branch. The employer shall
4 submit the information required by the board to verify potential
5 errors or contract employees with employers.

6 b. The board shall review and issue a final determination regarding
7 any appeals by December 31, 2021. In situations where the board
8 determines the last participating employer was incorrect and
9 should be assigned to another employer, the system shall, effective
10 for employer contributions payable on or after July 1, 2022, assign
11 the cost to the executive branch until such time ownership of the
12 liability can be determined and assigned to the correct employer. In
13 situations where the board determines certain employees of
14 employers were hired through a contract between the executive
15 branch and the employer for an employee or employees to provide
16 services to the executive branch, those liabilities shall, effective for
17 employer contributions payable on or after July 1, 2022, be
18 assigned to the executive branch. In situations where the board
19 determines the community mental health center was contracted to
20 provide services at a facility previously operated by the executive
21 branch, the liabilities for employees providing services at that
22 facility shall, effective for employer contributions payable on or
23 after July 1, 2022, be assigned to the executive branch.

24 c. No appeal shall be submitted by the employer or considered by the
25 board regarding the assumptions or methodology used by the
26 actuary to determine a particular employer's percentage of the
27 system's total actuarially accrued liability or the use of the last

1 participating employer to assign liabilities to an employer, except
2 as otherwise provided by this subparagraph.

3 d. The board shall within thirty (30) days following the final
4 determinations submit to the Public Pension Oversight Board the
5 list of appeals that were approved, the number of employees
6 involved, and any costs that will be transferred to the executive
7 branch effective July 1, 2022.

8 (e) The employer contributions computed under this section shall be determined
9 using:

- 10 1. The entry age normal cost funding method;
- 11 2. An asset smoothing method that smooths investment gains and losses
12 over a five (5) year period; and
- 13 3. Other funding methods and assumptions established by the board in
14 accordance with KRS 61.670.

15 (2) (a) Except as limited by subsection (1)(d)1.d. of this section as it relates to the
16 Kentucky Employees Retirement System, normal cost contribution rates and
17 the actuarially accrued liability contribution shall be determined by the board
18 on the basis of the annual actuarial valuation last preceding the July 1 of a new
19 biennium.

20 (b) The board shall not have the authority to amend contribution rates as of July 1
21 of the second year of the biennium for the Kentucky Employees Retirement
22 System and the State Police Retirement System.

23 (3) The system shall advise each employer prior to July 1 of any change in the employer
24 contribution rate. Based on the employer contribution rate, each employer shall
25 include in the budget sufficient funds to pay the employer contributions as
26 determined by the board under this section.

27 (4) All employers, including the General Assembly, shall pay the full actuarially

1 required contributions, as prescribed by this section, to the Kentucky Employees
2 Retirement System and the State Police Retirement System in fiscal years occurring
3 on or after July 1, 2020.

4 ➔Section 6. KRS 61.590 is amended to read as follows:

5 (1) (a) A member or beneficiary eligible to receive retirement benefits under any of
6 the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to
7 16.652 shall have on file at the retirement office on the form prescribed by the
8 board, a correctly completed notification of retirement, giving his or her name,
9 address, Social Security number or Kentucky **Public Pensions**
10 **Authority**~~[Retirement Systems]~~ member identification number, last day of
11 employment, and other information the **Authority**~~[system]~~ may require. The
12 form entitled "Notification of Retirement" shall not be filed more than six (6)
13 months before the member's effective retirement date.

14 (b) A member eligible to receive retirement benefits under any of the provisions
15 of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall certify
16 in writing on the "Notification of Retirement" form or another form prescribed
17 by the board that no prearranged agreement existed prior to the member's
18 retirement between the member and any participating agency in the systems
19 administered by the Kentucky Retirement Systems **or any participating**
20 **agency in the County Employees Retirement System** for the member to
21 return to employment with the participating agency. No retirement benefits
22 shall be paid to the member until the member completes the certification
23 required by this paragraph.

24 (2) After receipt of the correctly completed form entitled "Notification of Retirement",
25 the **Authority**~~[system]~~ shall cause to be prepared an estimate of the amounts the
26 member or beneficiary may expect to receive under the various plans available to
27 the member or beneficiary. This information shall be recorded on a form entitled

- 1 "Estimated Retirement Allowance" and forwarded to the member or beneficiary.
- 2 (3) The member or beneficiary shall file at the retirement office the form entitled
- 3 "Estimated Retirement Allowance" after he or she has checked one (1) payment
- 4 option of his or her choice, signed the document, and had his or her signature
- 5 witnessed. A member shall not have the right to select a different payment option on
- 6 or after the first day of the month in which the member receives his or her first
- 7 retirement allowance or after the effective date of a deferred retirement option as
- 8 provided by subsection (6) of this section, except as provided by KRS 61.542(5). A
- 9 beneficiary shall not have the right to select a different payment option after the
- 10 effective date of the beneficiary's retirement allowance as provided in subsection (7)
- 11 of this section.
- 12 (4) A member or beneficiary choosing a monthly payment option shall have on file at
- 13 the retirement office his or her birth certificate or other acceptable evidence of date
- 14 of birth. If a survivorship option is chosen, proof of dates of birth of the beneficiary
- 15 and member shall be on file at the retirement office.
- 16 (5) (a) The effective date of normal retirement shall be the first month following the
- 17 month in which employment from all employers participating in any of the
- 18 systems administered by Kentucky Retirement Systems and all employers
- 19 participating in the County Employees Retirement System was terminated.
- 20 (b) The effective date of disability retirement shall be the first month following
- 21 the month in which the member's last day of paid employment in a regular
- 22 full-time position occurred, provided the member files the form entitled
- 23 "Estimated Retirement Allowance" no later than six (6) months following the
- 24 date the notification of approval for disability retirement benefits is sent by
- 25 United States first-class mail to the member's last address on file in the
- 26 retirement office, by electronic mail to the member's last electronic mail
- 27 address on file in the retirement office, or by other electronic

1 ~~means~~~~[mailed]~~. If the member fails to file the form entitled "Estimated
2 Retirement Allowance" within six (6) months of the date the notification of
3 approval for disability retirement benefits is ~~sent~~~~[mailed]~~, then the member's
4 form entitled "Notification of Retirement" shall be void. The member shall be
5 required to submit a new form entitled "Notification of Retirement" to apply
6 for disability retirement and reestablish eligibility for disability retirement
7 benefits.

8 (c) The effective date of early retirement shall be the first month following the
9 month a correctly completed form entitled "Notification of Retirement" is
10 filed at the retirement office or a future month designated by the member, if
11 employment from all employers participating in any of the systems
12 administered by Kentucky Retirement Systems and all employers
13 participating in the County Employees Retirement System has been
14 terminated and if the member files the form entitled "Estimated Retirement
15 Allowance" no later than six (6) months following termination. If the member
16 fails to file the form entitled "Estimated Retirement Allowance" within six (6)
17 months following the effective retirement date of the member, then the
18 member's form entitled "Notification of Retirement" shall be void and the
19 member shall be required to submit a new form entitled "Notification of
20 Retirement" to apply for early retirement.

21 (6) The effective date of a deferred retirement option as provided under KRS 16.576(5)
22 shall be the month following age sixty-five (65), or the month following written
23 notification from the member that he or she wishes to begin receiving retirement
24 payments. In the event of the death of a member who has deferred his or her
25 retirement allowance, the effective date of retirement shall be the month following
26 the member's death.

27 (7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a

beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first day of the month in which the member would have received his or her first retirement allowance and his or her beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

➔Section 7. KRS 61.610 is amended to read as follows:

- (1) Once each year following the retirement of a person on a disability retirement allowance, except for persons who become totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or become disabled as a result of a duty-related injury as defined in KRS 61.621 in which case shall be once every three (3) years following retirement, or less frequently as determined by the board's medical examiner but not less than once every five (5) years, the system may require the person, prior to his or her normal retirement date, to undergo an employment and medical staff review and, if necessary, be required to file at the retirement office on the review form prescribed by the board current employment information and current medical information for the bodily injury, mental illness, or disease for which he or she receives a disability retirement allowance. The person shall have one hundred eighty (180) days from the day the system ~~sent~~~~mailed~~ the review form by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means, to file at the retirement office the review form and the current employment and medical information. The person shall certify to the retirement office that the review form, including current employment and medical information, is ready to be evaluated by the medical examiner in accordance with KRS 61.615.
- (2) If, after good faith efforts, the person informs the system that he or she has been unable to obtain the employment or medical information, the system shall assist the

1 person in obtaining the records and may use the authority granted pursuant to KRS
2 61.685(1) to obtain the records.

3 (3) If the person fails or refuses to file at the retirement office the review form,
4 including the current employment and medical information, his or her retirement
5 allowance shall be discontinued or reduced on the first day of the month following
6 the expiration of the one hundred eighty (180) days from the day the system
7 ~~sent~~~~mailed~~ the review form by United States first-class mail to the person's last
8 address on file in the retirement office, by electronic mail to the person's last
9 electronic mail address on file in the retirement office, or by other electronic
10 means. The ~~Authority~~~~system~~ shall send notice of the discontinuance or reduction
11 of the disability retirement allowance by United States first-class mail to the
12 person's last address on file in the retirement office, by electronic mail to the
13 person's last electronic mail address on file in the retirement office, or by other
14 electronic means. If the person's benefits are discontinued or reduced under this
15 section, his or her rights to further disability retirement allowances shall cease,
16 except as provided by KRS 61.615.

17 (4) The Kentucky Public Pensions Authority~~system~~ shall hire or contract for the
18 services of one (1) or more investigators~~an investigator~~ to investigate potential
19 fraud involving disability benefits with the system. The investigators~~investigator~~
20 shall evaluate potential cases of disability fraud and conduct spot audits for
21 potential fraud as determined by the system in cases involving members who
22 become totally and permanently disabled as a direct result of an act in line of duty
23 as defined in KRS 16.505 or become disabled as a result of a duty-related injury as
24 defined in KRS 61.621.

25 ➔Section 8. KRS 61.615 is amended to read as follows:

26 (1) If the board's medical examiner determines that a recipient of a disability retirement
27 allowance is, prior to his or her normal retirement date, employed in a position with

1 the same or similar duties, or in a position with duties requiring greater residual
2 functional capacity and physical exertion, as the position from which he or she was
3 disabled, except where the recipient has returned to work on a trial basis not to
4 exceed nine (9) months, the system may reduce or discontinue the retirement
5 allowance. Each recipient of a disability retirement allowance who is engaged in
6 gainful employment shall notify the system of any employment; otherwise, the
7 system shall have the right to recover payments of a disability retirement allowance
8 made during the employment.

9 (2) If the board's medical examiner determines that a recipient of a disability retirement
10 allowance is, prior to his or her normal retirement date, no longer incapacitated by
11 the bodily injury, mental illness, or disease for which he or she receives a disability
12 retirement allowance, the board may reduce or discontinue the retirement
13 allowance.

14 (3) The system shall have full power and exclusive authority to reduce or discontinue a
15 disability retirement allowance and the system shall utilize the services of a medical
16 examiner as provided in KRS 61.665, in determining whether to continue, reduce,
17 or discontinue a disability retirement allowance under this section.

18 (a) The system shall select a medical examiner to evaluate the forms and medical
19 information submitted by the person. If there is objective medical evidence of
20 a mental impairment, the medical examiner may request the board's licensed
21 mental health professional to assist in determining the level of the mental
22 impairment.

23 (b) The medical examiners shall be paid a reasonable amount by the retirement
24 system for each case evaluated.

25 (c) The medical examiner shall recommend that disability retirement allowance
26 be continued, reduced, or discontinued.

27 1. If the medical examiner recommends that the disability retirement

1 allowance be continued, the system shall make retirement payments in
2 accordance with the retirement plan selected by the person.

3 2. If the medical examiner recommends that the disability retirement
4 allowance be reduced or discontinued, the system shall send notice of
5 the recommendation by United States first-class mail to the person's last
6 address on file in the retirement office, by electronic mail to the
7 person's last electronic mail address on file in the retirement office, or
8 by other electronic means.

9 a. The person shall have sixty (60) days from the day that the system
10 ~~sent~~^{mailed} the notice to file at the retirement office additional
11 supporting employment or medical information and certify to the
12 retirement office that the forms and additional supporting
13 employment information or medical information are ready to be
14 evaluated by the medical examiner or to appeal the
15 recommendation of the medical examiner to reduce or discontinue
16 the disability retirement allowance by filing at the retirement office
17 a request for a formal hearing.

18 b. If the person fails or refuses to file at the retirement office the
19 forms, the additional supporting employment information, and
20 current medical information or to appeal the recommendation of
21 the medical examiners to reduce or discontinue the disability
22 retirement allowance, his or her retirement allowance shall be
23 discontinued on the first day of the month following the expiration
24 of the period of the sixty (60) days from the day the system
25 ~~sent~~^{mailed} the notice of the recommendation by United States
26 first-class mail to the person's last address on file in the retirement
27 office, by electronic mail to the person's last electronic mail

1 address on file in the retirement office, or by other electronic
2 means.

3 (d) The medical examiner shall make a recommendation based upon the
4 evaluation of additional supporting medical information submitted in
5 accordance with paragraph (c)2.a. of this subsection.

6 1. If the medical examiner recommends that the disability retirement
7 allowance be continued, the system shall make disability retirement
8 payments in accordance with the retirement plan selected by the person.

9 2. If the medical examiner recommends that the disability retirement
10 allowance be reduced or discontinued based upon the evaluation of
11 additional supporting medical information, the system shall send notice
12 of this recommendation by United States first-class mail to the person's
13 last address on file in the retirement office, by electronic mail to the
14 person's last electronic mail address on file in the retirement office, or
15 by other electronic means.

16 a. The person shall have sixty (60) days from the day that the system
17 ~~sent~~~~mailed~~ the notice of the recommendation to appeal the
18 recommendation to reduce or discontinue the disability retirement
19 allowance by filing at the retirement office a request for formal
20 hearing.

21 b. If the person fails or refuses to appeal the recommendation of the
22 medical examiners to reduce or discontinue the disability
23 retirement allowance, his or her retirement allowance shall be
24 discontinued on the first day of the month following the expiration
25 of the period of the sixty (60) days from the day the system
26 ~~sent~~~~mailed~~ the notice of the recommendation by United States
27 first-class mail to the person's last address on file in the retirement

1 office, by electronic mail to the person's last electronic mail
2 address on file in the retirement office, or by other electronic
3 means.

4 (e) Any person whose disability benefits have been reduced or discontinued,
5 pursuant to paragraph (c)2. or (d)2. of this subsection, may file at the
6 retirement office a request for formal hearing to be conducted in accordance
7 with KRS Chapter 13B. The right to demand a formal hearing shall be limited
8 to a period of sixty (60) days after the person had notice, as described in
9 paragraph (c) or (d) of this subsection. The request for formal hearing shall be
10 filed with the system, at the retirement office in Frankfort. The request for
11 formal hearing shall include a short and plain statement of the reasons the
12 reduction, discontinuance, or denial of disability retirement is being contested.

13 (f) Failure of the person to request a formal hearing within the period of time
14 specified shall preclude the person from proceeding any further with
15 contesting the reduction or discontinuation of disability retirement allowance,
16 except as provided in subsection (6)(d) of this section. This paragraph shall
17 not limit the person's right to appeal to a court.

18 (g) A final order of the board shall be based on substantial evidence appearing in
19 the record as a whole and shall set forth the decision of the board and the facts
20 and law upon which the decision is based. If the board orders that the person's
21 disability retirement allowance be discontinued or reduced, the order shall
22 take effect on the first day of the month following the day the system
23 ~~sent~~~~mailed~~ the order by United States first-class mail to the person's last
24 address on file in the retirement office, by electronic mail to the person's last
25 electronic mail address on file in the retirement office, or by other electronic
26 means. Judicial review of the final board order shall not operate as a stay and
27 the system shall discontinue or reduce the person's disability retirement

1 allowance as provided in this section.

2 (h) Notwithstanding any other provisions of this section, the system may require
3 the person to submit to one (1) or more medical or psychological
4 examinations at any time. The system shall be responsible for any costs
5 associated with any examinations of the person requested by the medical
6 examiner or the system for the purpose of providing medical information
7 deemed necessary by the medical examiner or the system. Notice of the time
8 and place of the examination shall be provided~~mailed~~ to the person or his or
9 her legal representative. If the person fails or refuses to submit to one (1) or
10 more medical examinations, his or her rights to further disability retirement
11 allowance shall cease.

12 (i) All requests for a hearing pursuant to this section shall be made in writing.

13 (4) The board may establish an appeals committee whose members shall be appointed
14 by the chair and who shall have the authority to act upon the recommendations and
15 reports of the hearing officer pursuant to this section on behalf of the board.

16 (5) Any person aggrieved by a final order of the board may seek judicial review after all
17 administrative appeals have been exhausted by filing a petition for judicial review
18 in the Franklin Circuit Court in accordance with KRS Chapter 13B.

19 (6) If a disability retirement allowance is reduced or discontinued for a person who
20 began participating in the system prior to January 1, 2014, the person may apply for
21 early retirement benefits as provided under KRS 61.559, subject to the following
22 provisions:

23 (a) The person may not change his or her beneficiary or payment option, except
24 as provided by KRS 61.542(5);

25 (b) If the person has returned to employment with an employer participating in
26 one (1) of the systems administered by Kentucky Retirement Systems, the
27 service and creditable compensation shall be used in recomputing his or her

- 1 benefit, except that the person's final compensation shall not be less than the
2 final compensation last used in determining his or her retirement allowance;
- 3 (c) The benefit shall be reduced as provided by KRS 61.595(2);
- 4 (d) The person shall remain eligible for reinstatement of his or her disability
5 allowance upon reevaluation by the medical review board until his or her
6 normal retirement age. The person shall apply for reinstatement of disability
7 benefits in accordance with the provisions of this section. An application for
8 reinstatement of disability benefits shall be administered as an application
9 under KRS 61.600, and only the bodily injuries, mental illnesses, diseases, or
10 conditions for which the person was originally approved for disability benefits
11 shall be considered. Bodily injuries, mental illnesses, diseases, or conditions
12 that came into existence after the person's last day of paid employment shall
13 not be considered as a basis for reinstatement of disability benefits. Bodily
14 injuries, mental illnesses, diseases, or conditions alleged by the person as
15 being incapacitating, but which were not the basis for the award of disability
16 retirement benefits, shall not be considered. If the person establishes that the
17 disability benefits should be reinstated, the retirement system shall pay
18 disability benefits effective from the first day of the month following the
19 month in which the person applied for reinstatement of the disability benefits;
20 and
- 21 (e) Upon attaining normal retirement age, the person shall receive the higher of
22 either his or her disability retirement allowance or his or her early retirement
23 allowance.
- 24 (7) *If a disability retirement allowance is reduced or discontinued for a person who*
25 *began participating in the system on or after January 1, 2014, the person shall*
26 *remain eligible for reinstatement of his or her disability allowance as provided*
27 *under subsection (6)(d) of this section.*

1 **(8)** No disability retirement allowance shall be reduced or discontinued by the system
2 after the person's normal retirement date except in case of reemployment as
3 provided for by KRS 61.637. If a disability retirement allowance has been reduced
4 or discontinued, except if the person is reemployed as provided for by KRS 61.637,
5 the retirement allowance shall be reinstated upon attainment of the person's normal
6 retirement date to the retirement allowance prior to adjustment. No reinstated
7 payment shall be less than the person is receiving upon attainment of the person's
8 normal retirement date.

9 ➔Section 9. KRS 61.635 is amended to read as follows:

10 (1) Each member shall have the right to elect to have his or her retirement allowance
11 payable under any one (1) of the options set forth in this section in lieu of the
12 retirement allowance otherwise payable to the member~~[him]~~ upon retirement under
13 any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to
14 78.852. The amount of any optional retirement allowance shall be actuarially
15 equivalent to the amount of retirement allowance otherwise payable to the
16 member~~[him]~~.

17 (2) Survivorship one hundred percent (100%). The member may elect to receive a
18 decreased retirement allowance during his or her lifetime and have the retirement
19 allowance continued after the member's~~[his]~~ death to his or her beneficiary during
20 the lifetime of the person.

21 (3) Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to
22 receive a decreased retirement allowance during his or her lifetime and have two-
23 thirds (2/3) of the retirement allowance continue after the member's~~[his]~~ death to
24 his or her beneficiary during the lifetime of the person.

25 (4) Survivorship fifty percent (50%). The member may elect to receive a decreased
26 retirement allowance during his or her lifetime and have one-half (1/2) of the
27 retirement allowance continued after the member's~~[his]~~ death to his or her

1 beneficiary during the lifetime of the person.

2 (5) Life with ten (10) years certain. The member less than age seventy-six (76) may
3 elect to receive a monthly retirement allowance during his or her lifetime which
4 shall guarantee payments for one hundred twenty (120) months. If the member dies
5 before receiving payments for one hundred twenty (120) months, the member's~~his~~
6 beneficiary shall receive the remaining payments monthly, for the duration of the
7 one hundred twenty (120) months' period. However, if the trust is designated as
8 beneficiary, the trustee of the trust may elect to receive a lump-sum payment which
9 shall be the actuarial equivalent to the remaining payments, or the trustee may elect
10 to continue the remaining monthly payments to the trust of the member. If the estate
11 is designated as beneficiary, the estate shall receive a lump-sum payment which
12 shall be the actuarial equivalent to the remaining payments.

13 (6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may
14 elect to receive a monthly retirement allowance during his or her lifetime which
15 shall guarantee payments for one hundred and eighty (180) months. If the member
16 dies before receiving payments for one hundred and eighty (180) months, the
17 member's~~his~~ beneficiary shall receive the remaining payments monthly for the
18 duration of the one hundred and eighty (180) months' period. However, if the trust
19 is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum
20 payment which shall be the actuarial equivalent to the remaining payments, or the
21 trustee may elect to continue the remaining payments to the trust of the member. If
22 the estate is designated as beneficiary, the estate shall receive a lump-sum payment
23 which shall be the actuarial equivalent to the remaining payments.

24 (7) Life with twenty (20) years certain. The member less than age sixty-two (62) may
25 elect to receive a monthly retirement allowance during his or her lifetime which
26 shall guarantee payments for two hundred and forty (240) months. If the member
27 dies before receiving payments for two hundred and forty (240) months, the

1 member's~~his~~ beneficiary shall receive the remaining payments for the duration of
2 the two hundred and forty (240) months period. However, if the trust is beneficiary,
3 the trustee of the trust may elect to receive a lump-sum payment which shall be the
4 actuarial equivalent to the remaining payments, or the trustee may elect to continue
5 the remaining payments to the trust of the member. If the estate is designated as
6 beneficiary, the estate shall receive a lump-sum payment which shall be the
7 actuarial equivalent to the remaining payments.

8 (8) Social Security adjustment options. These options shall be available to any member
9 who has not attained age sixty-two (62) as follows:

10 (a) No survivor rights. The member may elect to receive an increased retirement
11 allowance from his or her effective retirement date through the month he or
12 she attains age sixty-two (62) at which time his retirement allowance shall be
13 decreased for the remainder of his or her lifetime;

14 (b) Survivor rights. The member may elect to receive an increased retirement
15 allowance from his or her effective retirement date through the month he
16 attains age sixty-two (62) based on the option payable under subsection (2) of
17 this section, if the retirement allowance shall be decreased in the month
18 following the month he or she attains age sixty-two (62), or the month
19 following the month he or she would have attained age sixty-two (62), in
20 event of the member's~~his~~ death, and have the retirement allowance continue
21 after the member's~~his~~ death to his or her beneficiary during the lifetime of
22 the person.

23 (9) Beneficiary Social Security adjustment option. This option is available to the
24 beneficiary of a deceased member if the beneficiary, who is a person, has not
25 attained age sixty (60), and is eligible to receive Social Security payments at age
26 sixty (60). The beneficiary may elect to receive during his or her lifetime an
27 increased retirement allowance based on his or her annual benefit payable for life.

1 The payment shall begin on his or her effective retirement date and continue
2 through the month he or she attains age sixty (60) at which time his or her
3 retirement allowance shall be decreased for the remainder of his or her lifetime.

4 (10) Pop-up option. The member may elect to receive a decreased retirement allowance
5 during his or her lifetime and have the retirement allowance continued after the
6 member's~~his~~ death to his or her beneficiary during the lifetime of the person. If
7 the beneficiary dies prior to the member, or if the beneficiary is the member's
8 spouse and they divorce, the member's retirement allowance shall increase to the
9 amount that would have been payable as a single life annuity.

10 (11) Actuarial equivalent refund. A member who began participating in the system prior
11 to January 1, 2014, may elect to receive a one (1) time lump-sum payment which
12 shall be the actuarial equivalent of the amount payable for a period of sixty (60)
13 months under KRS 61.595 (1).

14 (12) Partial lump-sum option.

15 (a) No survivor rights. A member retiring on or before January 1, 2009, may elect
16 to receive a one-time lump-sum payment equal to twelve (12), twenty-four
17 (24), or thirty-six (36) monthly retirement allowances payable under the
18 applicable retirement formula for the system and receive a reduced monthly
19 retirement allowance payable for his or her lifetime. The lump-sum payment
20 shall be paid in the month the first monthly retirement allowance is payable.

21 (b) Survivor rights. A member retiring on or before January 1, 2009, may elect to
22 receive a one-time lump-sum payment equal to twelve (12), twenty-four (24),
23 or thirty-six (36) monthly retirement allowances payable under subsection (2)
24 of this section and receive a reduced monthly retirement allowance payable for
25 his or her lifetime. The lump-sum payment shall be paid in the month the first
26 monthly retirement allowance is payable. The reduced retirement allowance
27 shall be continued after the member's death to his or her beneficiary during

1 the lifetime of the person.

2 (13) The other provisions of this section notwithstanding, the beneficiary of a retired
3 member of the General Assembly shall, after the member's death, receive sixty-six
4 and two-thirds percent (66-2/3%) of the member's retirement allowance during his
5 or her lifetime if the member of the General Assembly began participating in the
6 system prior to January 1, 2014, and has elected this option and has made
7 contributions in accordance with subsection (14) of this section and of KRS 61.560.
8 The retirement allowance of the retired member of the General Assembly shall not
9 be actuarially reduced to provide for this survivor benefit.

10 (14) A member of the General Assembly who began participating in the system prior to
11 January 1, 2014, who wishes to obtain the survivorship option specified in
12 subsection (13) of this section shall so notify the Kentucky **Public Pensions**
13 **Authority**~~[retirement systems]~~:

14 (a) Within thirty (30) days after first becoming a member of the General
15 Assembly if he **or she** is not a member of the General Assembly on July 15,
16 1980; or

17 (b) Within thirty (30) days after July 15, 1980, if he **or she** is a member of the
18 General Assembly on July 15, 1980.

19 (15) The system shall forward to members of the General Assembly a form on which a
20 member who began participating in the system prior to January 1, 2014, may elect
21 the option provided for in subsections (13) and (14) of this section.

22 (16) The options described in subsections (2), (3), (4), (8)(b), (10), (12)(b), and (13) of
23 this section shall be extended to the member only if the designated beneficiary is a
24 person.

25 ➔Section 10. KRS 61.637 is amended to read as follows:

26 (1) A retired member who is receiving monthly retirement payments under any of the
27 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed

1 as an employee by a participating agency prior to August 1, 1998, shall have his or
2 her retirement payments suspended for the duration of reemployment. Monthly
3 payments shall not be suspended for a retired member who is reemployed if he or
4 she anticipates that he or she will receive less than the maximum permissible
5 earnings as provided by the Federal Social Security Act in compensation as a result
6 of reemployment during the calendar year. The payments shall be suspended at the
7 beginning of the month in which the reemployment occurs.

8 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to
9 61.705 and 78.510 to 78.852 on the compensation paid during reemployment,
10 except where monthly payments were not suspended as provided in subsection (1)
11 of this section or would not increase the retired member's last monthly retirement
12 allowance by at least one dollar (\$1), and the member shall be credited with
13 additional service credit.

14 (3) In the month following the termination of reemployment, retirement allowance
15 payments shall be reinstated under the plan under which the member was receiving
16 payments prior to reemployment.

17 (4) (a) Notwithstanding the provisions of this section, the payments suspended in
18 accordance with subsection (1) of this section shall be paid retroactively to the
19 retired member, or his or her estate, if he or she does not receive more than the
20 maximum permissible earnings as provided by the Federal Social Security Act
21 in compensation from participating agencies during any calendar year of
22 reemployment.

23 (b) If the retired member is paid suspended payments retroactively in accordance
24 with this section, employee contributions deducted during his or her period of
25 reemployment, if any, shall be refunded to the retired employee, and no
26 service credit shall be earned for the period of reemployment.

27 (c) If the retired member is not eligible to be paid suspended payments for his or

1 her period of reemployment as an employee, his or her retirement allowance
2 shall be recomputed under the plan under which the member was receiving
3 payments prior to reemployment as follows:

- 4 1. The retired member's final compensation shall be recomputed using
5 creditable compensation for his or her period of reemployment;
6 however, the final compensation resulting from the recalculation shall
7 not be less than that of the member when his or her retirement allowance
8 was last determined;
- 9 2. If the retired member initially retired on or subsequent to his or her
10 normal retirement date, his or her retirement allowance shall be
11 recomputed by using the formula in KRS 61.595(1);
- 12 3. If the retired member initially retired prior to his or her normal
13 retirement date, his or her retirement allowance shall be recomputed
14 using the formula in KRS 61.595(2), except that the member's age used
15 in computing benefits shall be his or her age at the time of his or her
16 initial retirement increased by the number of months of service credit
17 earned for service performed during reemployment;
- 18 4. The retirement allowance payments resulting from the recomputation
19 under this subsection shall be payable in the month following the
20 termination of reemployment in lieu of payments under subparagraph 3.
21 of this paragraph. The member shall not receive less in benefits as a
22 result of the recomputation than he or she was receiving prior to
23 reemployment or would receive as determined under KRS 61.691; and
- 24 5. Any retired member who was reemployed prior to March 26, 1974, shall
25 begin making contributions to the system in accordance with the
26 provisions of this section on the first day of the month following March
27 26, 1974.

- 1 (5) A retired member, or his or her estate, shall pay to the retirement fund the total
2 amount of payments which are not suspended in accordance with subsection (1) of
3 this section if the member received more than the maximum permissible earnings as
4 provided by the Federal Social Security Act in compensation from participating
5 agencies during any calendar year of reemployment, except the retired member or
6 his or her estate may repay the lesser of the total amount of payments which were
7 not suspended or fifty cents (\$0.50) of each dollar earned over the maximum
8 permissible earnings during reemployment if under age sixty-five (65), or one dollar
9 (\$1) for every three dollars (\$3) earned if over age sixty-five (65).
- 10 (6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a
11 retired member who has been ordered reinstated by the Personnel Board under
12 authority of KRS 18A.095.
- 13 (b) A retired member who has been ordered reinstated by the Personnel Board
14 under authority of KRS 18A.095 or by court order or by order of the Human
15 Rights Commission and accepts employment by an agency participating in the
16 Kentucky Employees Retirement System or County Employees Retirement
17 System shall void his or her retirement by reimbursing the system in the full
18 amount of his or her retirement allowance payments received.
- 19 (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this
20 section shall no longer apply to a retired member who is reemployed in a
21 position covered by the same retirement system from which the member
22 retired. Reemployed retired members shall be treated as new members upon
23 reemployment. Any retired member whose reemployment date preceded
24 August 1, 1998, who does not elect, within sixty (60) days of notification by
25 the retirement systems, to remain under the provisions of subsections (1) to
26 (4) of this section shall be deemed to have elected to participate under this
27 subsection.

1 (b) A retired member whose disability retirement was discontinued pursuant to
2 KRS 61.615 and who is reemployed in one (1) of the systems administered by
3 the Kentucky Retirement Systems or County Employees Retirement System
4 prior to his or her normal retirement date shall have his or her accounts
5 combined upon termination for determining eligibility for benefits. If the
6 member is eligible for retirement, the member's service and creditable
7 compensation earned as a result of his or her reemployment shall be used in
8 the calculation of benefits, except that the member's final compensation shall
9 not be less than the final compensation last used in determining his or her
10 retirement allowance. The member shall not change beneficiary or payment
11 option designations. This provision shall apply to members reemployed on or
12 after August 1, 1998.

13 (8) If a retired member accepts employment or begins serving as a volunteer with an
14 employer participating in the systems administered by Kentucky Retirement
15 Systems or County Employees Retirement System within twelve (12) months of his
16 or her retirement date, the retired member shall notify the Authority and the
17 participating employer shall submit the information required or requested by the
18 Authority to confirm the individual's employment or volunteer status. The retired
19 member shall not be required to notify the Authority regarding any employment or
20 volunteer service with a participating agency that is accepted after twelve (12)
21 months following his or her retirement date.

22 (9) If the retired member is under a contract to provide services as an independent
23 contractor or leased employee to an employer participating in the systems
24 administered by Kentucky Retirement Systems or County Employees Retirement
25 System within twelve (12) months of his or her retirement date, the member shall
26 submit a copy of that contract to the Authority, and the Authority shall determine if
27 the member is an independent contractor or leased employee for purposes of

1 retirement benefits. The retired member and the participating employer shall submit
2 the information required or requested by the Authority to confirm the individual's
3 status as an independent contractor or leased employee. The retired member shall
4 not be required to notify the Authority regarding any services entered into as an
5 independent contractor or leased employee with a participating agency that the
6 employee enters into after twelve (12) months following his or her retirement date.

7 (10) If a member is receiving a retirement allowance, or has filed the forms required for
8 a retirement allowance, and is employed within one (1) month of the member's
9 initial retirement date in a position that is required to participate in the same
10 retirement system from which the member retired, the member's retirement shall be
11 voided and the member shall repay to the retirement system all benefits received.
12 The member shall contribute to the member account established for him or her prior
13 to his or her voided retirement. The retirement allowance for which the member
14 shall be eligible upon retirement shall be determined by total service and creditable
15 compensation.

16 (11) (a) If a member of the Kentucky Employees Retirement System retires from a
17 department which participates in more than one (1) retirement system and is
18 reemployed within one (1) month of his or her initial retirement date by the
19 same department in a position participating in another retirement system, the
20 retired member's retirement allowance shall be suspended for the first month
21 of his or her retirement, and the member shall repay to the retirement system
22 all benefits received for the month.

23 (b) A retired member of the County Employees Retirement System who after
24 initial retirement is hired by the county from which the member retired shall
25 be considered to have been hired by the same employer.

26 (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a
27 nonhazardous member who retired prior to age sixty-five (65), is reemployed

1 within six (6) months of the member's termination by the same employer, the
2 member shall obtain from his or her previous and current employers a copy of
3 the job description established by the employers for the position and a
4 statement of the duties performed by the member for the position from which
5 he or she retired and for the position in which he or she has been reemployed.

6 (b) The job descriptions and statements of duties shall be filed with the retirement
7 office.

8 (13) If the retirement system determines that the retired member has been employed in a
9 position with the same principal duties as the position from which the member
10 retired:

11 (a) The member's retirement allowance shall be suspended during the period that
12 begins on the month in which the member is reemployed and ends six (6)
13 months after the member's termination;

14 (b) The retired member shall repay to the retirement system all benefits paid from
15 systems administered by Kentucky Retirement Systems or County Employees
16 Retirement System under reciprocity, including medical insurance benefits,
17 that the member received after reemployment began;

18 (c) Upon termination, or subsequent to expiration of the six (6) month period
19 from the date of termination, the retired member's retirement allowance based
20 on his or her initial retirement account shall no longer be suspended, and the
21 member shall receive the amount to which he or she is entitled, including an
22 increase as provided by KRS 61.691;

23 (d) Except as provided in subsection (7) of this section, if the position in which a
24 retired member is employed after initial retirement is a regular full-time
25 position, the retired member shall contribute to a second member account
26 established for him or her in the retirement system. Service credit gained after
27 the member's date of reemployment shall be credited to the second member

1 account; and

2 (e) Upon termination, the retired member shall be entitled to benefits payable
3 from his or her second retirement account.

4 (14) (a) If the retirement system determines that the retired member has not been
5 reemployed in a position with the same principal duties as the position from
6 which he or she retired, the retired member shall continue to receive his or her
7 retirement allowance.

8 (b) If the position is a regular full-time position, the member shall contribute to a
9 second member account in the retirement system.

10 (15) (a) If a retired member is reemployed at least one (1) month after initial
11 retirement in a different position, or at least six (6) months after initial
12 retirement in the same position, and prior to normal retirement age, the retired
13 member shall contribute to a second member account in the retirement system
14 and continue to receive a retirement allowance from the first member account.

15 (b) Service credit gained after reemployment shall be credited to the second
16 member account. Upon termination, the retired member shall be entitled to
17 benefits payable from the second member account.

18 (16) A retired member who is reemployed and contributing to a second member account
19 shall not be eligible to purchase service credit under any of the provisions of KRS
20 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he or she was
21 eligible to purchase prior to his or her initial retirement.

22 (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this
23 section, the following shall apply to retired members who are reemployed by an
24 agency participating in one (1) of the systems administered by Kentucky Retirement
25 Systems or County Employees Retirement System on or after September 1, 2008:

26 (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
27 receiving a retirement allowance from one (1) of the systems administered by

1 Kentucky Retirement Systems or County Employees Retirement System, or
2 has filed the forms required to receive a retirement allowance from one (1) of
3 the systems administered by Kentucky Retirement Systems or County
4 Employees Retirement System, and is employed in a regular full-time position
5 required to participate in one (1) of the systems administered by Kentucky
6 Retirement Systems or County Employees Retirement System or is employed
7 in a position that is not considered regular full-time with an agency
8 participating in one (1) of the systems administered by Kentucky Retirement
9 Systems or County Employees Retirement System within three (3) months
10 following the member's initial retirement date, the member's retirement shall
11 be voided, and the member shall repay to the retirement system all benefits
12 received, including any health insurance benefits. If the member is returning
13 to work in a regular full-time position required to participate in one (1) of the
14 systems administered by Kentucky Retirement Systems:

- 15 1. The member shall contribute to a member account established for him or
16 her in one (1) of the systems administered by Kentucky Retirement
17 Systems or County Employees Retirement System, and employer
18 contributions shall be paid on behalf of the member by the participating
19 employer; and
 - 20 2. Upon subsequent retirement, the member shall be eligible for a
21 retirement allowance based upon total service and creditable
22 compensation, including any additional service or creditable
23 compensation earned after his or her initial retirement was voided;
- 24 (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
25 receiving a retirement allowance from one (1) of the systems administered by
26 Kentucky Retirement Systems or County Employees Retirement System and
27 is employed in a regular full-time position required to participate in one (1) of

1 the systems administered by Kentucky Retirement Systems or County
2 Employees Retirement System after a three (3) month period following the
3 member's initial retirement date, the member may continue to receive his or
4 her retirement allowance during the period of reemployment subject to the
5 following provisions:

- 6 1. If a member is reemployed by a participating agency within twelve (12)
7 months of the member's retirement date, the participating agency shall
8 certify in writing on a form prescribed by the Authority that no
9 prearranged agreement existed between the employee and agency prior
10 to the employee's retirement for the employee to return to work with the
11 participating agency. If an elected official is reelected to a new term of
12 office in the same position as the elected official held prior to
13 retirement and takes office~~[and has retired from the elected office]~~
14 within twelve (12) months of his or her retirement date~~[prior to taking~~
15 ~~the new term of office]~~, he or she shall be deemed by the
16 Authority~~[system]~~ as having a prearranged agreement under the
17 provisions of this subparagraph and shall have his or her retirement
18 voided. If the participating agency fails to complete the certification, the
19 member's retirement shall be voided and the provisions of paragraph (a)
20 of this subsection shall apply to the member and the employer.
21 Employment that is accepted by the retired member after twelve (12)
22 months following the member's retirement date shall not constitute a
23 prearranged agreement under this paragraph;
- 24 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
25 the contrary, the member shall not contribute to the systems and shall
26 not earn any additional benefits for any work performed during the
27 period of reemployment;

- 1 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
2 except for any retiree employed as a school resource officer as defined
3 by KRS 158.441, the employer shall pay employer contributions as
4 specified by KRS 61.565, 61.702, and 78.635, as applicable, on all
5 creditable compensation earned by the employee during the period of
6 reemployment. The additional contributions paid shall be used to reduce
7 the unfunded actuarial liability of the systems; and
- 8 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
9 except for any retiree employed as a school resource officer as defined
10 by KRS 158.441, the employer shall be required to reimburse the
11 systems for the cost of the health insurance premium paid by the systems
12 to provide coverage for the retiree, not to exceed the cost of the single
13 premium. Effective July 1, 2015, local school boards shall not be
14 required to pay the reimbursement required by this subparagraph for
15 retirees employed by the board for eighty (80) days or less during the
16 fiscal year;
- 17 (c) If a member is receiving a retirement allowance from the State Police
18 Retirement System or from hazardous duty retirement coverage with the
19 Kentucky Employees Retirement System or the County Employees Retirement
20 System, or has filed the forms required to receive a retirement allowance from
21 the State Police Retirement System or from hazardous duty retirement
22 coverage with the Kentucky Employees Retirement System or the County
23 Employees Retirement System, and is employed in a regular full-time position
24 required to participate in the State Police Retirement System or in a hazardous
25 duty position with the Kentucky Employees Retirement System or the County
26 Employees Retirement System within one (1) month following the member's
27 initial retirement date, the member's retirement shall be voided, and the

1 member shall repay to the retirement system all benefits received, including
2 any health insurance benefits. If the member is returning to work in a regular
3 full-time position required to participate in one (1) of the systems
4 administered by Kentucky Retirement Systems or County Employees
5 Retirement System:

6 1. The member shall contribute to a member account established for him or
7 her in one (1) of the systems administered by Kentucky Retirement
8 Systems or County Employees Retirement System, and employer
9 contributions shall be paid on behalf of the member by the participating
10 employer; and

11 2. Upon subsequent retirement, the member shall be eligible for a
12 retirement allowance based upon total service and creditable
13 compensation, including any additional service or creditable
14 compensation earned after his or her initial retirement was voided;

15 (d) If a member is receiving a retirement allowance from the State Police
16 Retirement System or from hazardous duty retirement coverage with the
17 Kentucky Employees Retirement System or the County Employees Retirement
18 System and is employed in a regular full-time position required to participate
19 in the State Police Retirement System or in a hazardous duty position with the
20 Kentucky Employees Retirement System or the County Employees Retirement
21 System after a one (1) month period following the member's initial retirement
22 date, the member may continue to receive his or her retirement allowance
23 during the period of reemployment subject to the following provisions:

24 1. If a member is reemployed by a participating agency within twelve (12)
25 months of the member's retirement date, the participating agency shall
26 certify in writing on a form prescribed by the Authority that no
27 prearranged agreement existed between the employee and agency prior

1 to the employee's retirement for the employee to return to work with the
2 participating agency. If an elected official is reelected to a new term of
3 office in the same position as the elected official held prior to
4 retirement and takes office~~[and has retired from the elected office]~~
5 within twelve (12) months of his or her retirement date~~[prior to taking~~
6 ~~the new term of office]~~, he or she shall be deemed by the Authority as
7 having a prearranged agreement under the provisions of this
8 subparagraph and shall have his or her retirement voided. If the
9 participating agency fails to complete the certification, the member's
10 retirement shall be voided and the provisions of paragraph (c) of this
11 subsection shall apply to the member and the employer. Employment
12 that is accepted by the retired member after twelve (12) months
13 following the member's retirement date shall not constitute a
14 prearranged agreement under this paragraph;

- 15 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
16 the contrary, the member shall not contribute to the systems and shall
17 not earn any additional benefits for any work performed during the
18 period of reemployment;
- 19 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
20 except for any retiree employed as a school resource officer as defined
21 by KRS 158.441, the employer shall pay employer contributions as
22 specified by KRS 61.565, 61.702, and 78.635, as applicable, on all
23 creditable compensation earned by the employee during the period of
24 reemployment. The additional contributions paid shall be used to reduce
25 the unfunded actuarial liability of the systems;
- 26 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
27 except for any retiree employed as a school resource officer as defined

1 by KRS 158.441, the employer shall be required to reimburse the
2 systems for the cost of the health insurance premium paid by the systems
3 to provide coverage for the retiree, not to exceed the cost of the single
4 premium;

5 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member
6 who qualifies as a volunteer for an employer participating in one (1) of the
7 systems administered by Kentucky Retirement Systems or County Employees
8 Retirement System and who is receiving reimbursement of actual expenses, a
9 nominal fee for his or her volunteer services, or both, shall not be considered
10 an employee of the participating employer and shall not be subject to
11 paragraphs (a) to (d) of this subsection if:

- 12 1. Prior to the retired member's most recent retirement date, he or she did
13 not receive creditable compensation from the participating employer in
14 which the retired member is performing volunteer services;
- 15 2. Any reimbursement or nominal fee received prior to the retired
16 member's most recent retirement date has not been credited as creditable
17 compensation to the member's account or utilized in the calculation of
18 the retired member's benefits;
- 19 3. The retired member has not purchased or received service credit under
20 any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for
21 service with the participating employer for which the retired member is
22 performing volunteer services; and
- 23 4. Other than the status of volunteer, the retired member does not become
24 an employee, leased employee, or independent contractor of the
25 employer for which he or she is performing volunteer services for a
26 period of at least twelve (12) months following the retired member's
27 most recent retirement date.

1 If a retired member, who provided volunteer services with a participating
2 employer under this paragraph violates any provision of this paragraph, then
3 he or she shall be deemed an employee of the participating employer as of the
4 date he or she began providing volunteer services and both the retired member
5 and the participating employer shall be subject to paragraphs (a) to (d) of this
6 subsection for the period of volunteer service;

7 (f) Notwithstanding any provision of this section, any mayor or member of a city
8 legislative body shall not be required to resign from his or her position as
9 mayor or as a member of the city legislative body in order to begin drawing
10 benefits from the systems administered by Kentucky Retirement Systems or
11 subject to any provision of this section as it relates solely to his or her service
12 as a mayor or member of the city legislative body if the mayor or member of a
13 city legislative body:

- 14 1. Has not participated in the County Employees Retirement System prior
15 to retirement, but is otherwise eligible to retire from the Kentucky
16 Employees Retirement System or the State Police Retirement System; or
- 17 2. Has been or is participating in the County Employees Retirement System
18 and is at least sixty-two (62) years of age. If a mayor or member of a city
19 legislative body who is at least sixty-two (62) years of age retires from
20 the systems administered by Kentucky Retirement Systems but remains
21 in office after his or her effective retirement date, the mayor or member
22 of the city legislative body shall not accrue any further service credit or
23 benefits in the systems administered by Kentucky Retirement Systems
24 for any employment occurring on or after the effective retirement date;

25 (g) If a member is receiving a retirement allowance from any of the retirement
26 systems administered by the Kentucky Retirement Systems or County
27 Employees Retirement System and enters into a contract or becomes a leased

1 employee of an employer under contract with an employer participating in one
2 (1) of the systems administered by the Kentucky Retirement Systems or
3 County Employees Retirement System:

- 4 1. At any time following retirement, if the Authority determines the
5 employment arrangement does qualify as an independent contractor or
6 leased employee, the member may continue to receive his or her
7 retirement allowance during the period of the contract;
- 8 2. Within three (3) months following the member's initial retirement date,
9 if the Authority determines the employment arrangement does not
10 qualify as an independent contractor or leased employee, the member's
11 retirement shall be voided in accordance with paragraph (a) of this
12 subsection;
- 13 3. After three (3) months but within twelve (12) months following the
14 member's initial retirement, if the Authority determines the employment
15 arrangement does not qualify as an independent contractor or leased
16 employee and that a prearranged agreement existed between the member
17 and the agency for the member to return to work with the agency, the
18 member's retirement shall be voided in accordance with paragraph (a) of
19 this subsection; and
- 20 4. After a twelve (12) month period following the member's initial
21 retirement, the member may continue to receive his or her retirement
22 allowance during the period of the contract and the member shall not be
23 required to notify the system or submit any documentation for purposes
24 of this section to the system.

25 The initiation of a contract or the initial date of the leased employment of a
26 retired member by a participating agency that occurs after twelve (12) months
27 or more following the retired member's retirement date shall not constitute a

1 prearranged agreement under this subsection; and

2 (h) The Authority shall issue a final determination regarding a certification of the
3 absence of a prearranged agreement or the retired member's qualification as an
4 independent contractor or leased employee as required under this section no
5 later than thirty (30) days after the retired member and participating employer
6 provide all required forms and additional information required by the
7 Authority.

8 (18) The Authority shall promulgate administrative regulations to implement the
9 requirements of this section, including incorporating by reference board-prescribed
10 forms that a retired member and participating agency shall provide the systems
11 under subsections (8), (9), and (17) of this section.

12 ➔Section 11. KRS 61.645 is amended to read as follows:

13 (1) The Kentucky Employees Retirement System and State Police Retirement System
14 shall be administered by the board of trustees of the Kentucky Retirement Systems
15 composed of nine (9) members, who shall be selected as follows:

16 (a) One (1) trustee, who shall be a member or retired from the State Police
17 Retirement System, elected by the members and retired members of the State
18 Police Retirement System;

19 (b) Two (2) trustees, who shall be members or retired from the Kentucky
20 Employees Retirement System, elected by the members and retired members
21 of the Kentucky Employees Retirement System;

22 (c) Six (6) trustees, appointed by the Governor of the Commonwealth, subject to
23 Senate confirmation in accordance with KRS 11.160 for each appointment or
24 reappointment. Of the six (6) trustees appointed by the Governor, three (3)
25 trustees shall have investment experience and three (3) trustees shall have
26 retirement experience;

27 (d) For purposes of paragraph (c) of this subsection, a trustee with "investment

1 experience" means an individual who does not have a conflict of interest, as
2 provided by KRS 61.655, and who has at least ten (10) years of experience in
3 one (1) of the following areas of expertise:

- 4 1. A portfolio manager acting in a fiduciary capacity;
- 5 2. A professional securities analyst or investment consultant;
- 6 3. A current or retired employee or principal of a trust institution,
7 investment or finance organization, or endowment fund acting in an
8 investment-related capacity;
- 9 4. A chartered financial analyst in good standing as determined by the CFA
10 Institute; or
- 11 5. A university professor, teaching investment-related studies; and

12 (e) For purposes of paragraph (c) of this subsection, a trustee with "retirement
13 experience" means an individual who does not have a conflict of interest, as
14 provided by KRS 61.655, and who has at least ten (10) years of experience in
15 one (1) of the following areas of expertise:

- 16 1. Experience in retirement or pension plan management;
- 17 2. A certified public accountant with relevant experience in retirement or
18 pension plan accounting;
- 19 3. An actuary with relevant experience in retirement or pension plan
20 consulting;
- 21 4. An attorney licensed to practice law in the Commonwealth of Kentucky
22 with relevant experience in retirement or pension plans; or
- 23 5. A current or former university professor whose primary area of emphasis
24 is economics or finance.

25 (2) The board is hereby granted the powers and privileges of a corporation, including
26 but not limited to the following powers:

- 27 (a) To sue and be sued in its corporate name;

- 1 (b) To make bylaws not inconsistent with the law;
- 2 (c) To conduct the business and promote the purposes for which it was formed;
- 3 (d) Except as provided in KRS 61.650(6), to contract for investment counseling,
- 4 auditing, medical, and other professional or technical services as required to
- 5 carry out the obligations of the board subject to KRS Chapters 45, 45A, 56,
- 6 and 57. Actuarial consulting services shall be provided by a firm hired by the
- 7 Kentucky Public Pensions Authority;
- 8 (e) To purchase fiduciary liability insurance;
- 9 (f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of,
- 10 pledge, lease, or mortgage, the goods or property necessary to exercise the
- 11 board's powers and perform the board's duties subject to KRS Chapters 45,
- 12 45A, and 56; and
- 13 (g) The board shall reimburse any trustee, officer, or employee for any legal
- 14 expense resulting from a civil action arising out of the performance of his or
- 15 her official duties. The hourly rate of reimbursement for any contract for legal
- 16 services under this paragraph shall not exceed the maximum hourly rate
- 17 provided in the Legal Services Duties and Maximum Rate Schedule
- 18 promulgated by the Government Contract Review Committee established
- 19 pursuant to KRS 45A.705, unless a higher rate is specifically approved by the
- 20 secretary of the Finance and Administration Cabinet or his or her designee.
- 21 (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee
- 22 shall serve a term of four (4) years or until his or her successor is duly
- 23 qualified except as otherwise provided in this section. An elected trustee or a
- 24 trustee appointed by the Governor under subsection (1)(c) of this section, shall
- 25 not serve more than three (3) consecutive four (4) year terms. An elected
- 26 trustee or a trustee appointed by the Governor under subsection (1)(c) of this
- 27 section, who has served three (3) consecutive terms may be elected or

1 appointed again after an absence of four (4) years from the board.

2 (b) The term limits established by paragraph (a) of this subsection shall apply to
3 trustees serving on or after July 1, 2012, and all terms of office served prior to
4 July 1, 2012, shall be used to determine if the trustee has exceeded the term
5 limits provided by paragraph (a) of this subsection.

6 (4) (a) The trustees selected by the membership of each of the various retirement
7 systems shall be elected by ballot. For each trustee to be elected, the board
8 may nominate, not less than six (6) months before a term of office of a trustee
9 is due to expire, three (3) constitutionally eligible individuals.

10 (b) Individuals may be nominated by the retirement system members which are to
11 elect the trustee by presenting to the executive director, not less than four (4)
12 months before a term of office of a trustee is due to expire, a petition, bearing
13 the name, last four (4) digits of the Social Security number, and signature of
14 no less than one-tenth (1/10) of the number voting in the last election by the
15 retirement system members.

16 (c) Within four (4) months of the nominations made in accordance with
17 paragraphs (a) and (b) of this subsection, the executive director shall cause to
18 be prepared an official ballot. The ballot shall include the name, address, and
19 position title of each individual nominated by the board and by petition.
20 Provisions shall also be made for write-in votes.

21 (d) Except as provided by paragraph (j) of this subsection, the ballots shall be
22 distributed to the eligible voters by mail to their last known residence address
23 on file with the Kentucky Public Pensions Authority. Ballots shall not be
24 distributed by mail to member addresses reported as invalid to the Kentucky
25 Public Pensions Authority.

26 (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of
27 a predetermined box number at a United States Post Office or submitted

1 electronically as provided by paragraph (j) of this subsection. Access to this
2 post office box shall be limited to the board's contracted firm. The individual
3 receiving a plurality of votes shall be declared elected.

4 (f) The eligible voter shall cast his or her ballot by selecting the candidate of his
5 or her choice. He or she shall sign and mail the ballot or submit the electronic
6 ballot at least thirty (30) days prior to the date the term to be filled is due to
7 expire. The latest mailing date, or date of submission in the case of electronic
8 ballots, shall be provided on the ballot.

9 (g) The board's contracted firm shall report in writing the outcome to the chair of
10 the board of trustees. Cost of an election shall be payable from the funds of
11 the system for which the trustee is elected.

12 (h) For purposes of this subsection, an eligible voter shall be a person who was a
13 member of the retirement system on December 31 of the year preceding the
14 election year.

15 (i) Each individual who submits a request to be nominated by the board under
16 paragraph (a) of this subsection and each individual who is nominated by the
17 membership under paragraph (b) of this subsection shall:

- 18 1. Complete an application developed by the retirement systems which
19 shall include but not be limited to a disclosure of any prior felonies and
20 any conflicts of interest that would hinder the individual's ability to
21 serve on the board;
- 22 2. Submit a resume detailing the individual's education and employment
23 history and a cover letter detailing the member's qualifications for
24 serving as trustee to the board; and
- 25 3. Authorize the systems to have a criminal background check performed.
26 The criminal background check shall be performed by the Department of
27 Kentucky State Police.

- 1 (j) In lieu of the ballots mailed to members and retired members as provided by
2 this subsection, the systems may by promulgation of administrative regulation
3 pursuant to KRS Chapter 13A conduct trustee elections using electronic
4 ballots, except that the systems shall mail a paper ballot upon request of any
5 eligible voter.
- 6 (5) (a) Any vacancy which may occur in an appointed position during a term of office
7 shall be filled in the same manner which provides for the selection of the
8 particular trustee, and any vacancy which may occur in an elected position
9 during a term of office shall be filled by appointment by a majority vote of the
10 remaining elected trustees with a person selected from the system in which the
11 vacancy occurs; however, any vacancy shall be filled only for the duration of
12 the unexpired term. In the event of a vacancy of an elected trustee during a
13 term of office, Kentucky Retirement Systems shall notify members of the
14 system in which the vacancy occurs of the vacancy and the opportunity to be
15 considered for the vacant position. Any vacancy during a term of office shall
16 be filled within ninety (90) days of the position becoming vacant.
- 17 (b) Any appointments or reappointments to an appointed position on the board
18 shall be made no later than thirty (30) days prior to an appointed member's
19 term of office ending.
- 20 (6) (a) Membership on the board of trustees shall not be incompatible with any other
21 office unless a constitutional incompatibility exists. No trustee shall serve in
22 more than one (1) position as trustee on the board; and if a trustee holds more
23 than one (1) position as trustee on the board, he or she shall resign a position.
- 24 (b) A trustee shall be removed from office upon conviction of a felony or for a
25 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court
26 of competent jurisdiction.
- 27 (c) A current or former employee of Kentucky Retirement Systems, County

1 Employees Retirement System, or the Kentucky Public Pensions Authority
2 shall not be eligible to serve as a member of the board.

3 (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive
4 a per diem of eighty dollars (\$80) for each day they are in session or on official
5 duty, and they shall be reimbursed for their actual and necessary expenses in
6 accordance with state administrative regulations and standards.

7 (8) (a) The board shall meet at least once in each quarter of the year and may meet in
8 special session upon the call of the chair or the chief executive officer.

9 (b) The board shall elect a chair and a vice chair. The chair shall not serve more
10 than four (4) consecutive years as chair or vice-chair of the board. The vice-
11 chair shall not serve more than four (4) consecutive years as chair or vice-
12 chair of the board. A trustee who has served four (4) consecutive years as
13 chair or vice-chair of the board may be elected chair or vice-chair of the board
14 after an absence of two (2) years from the positions.

15 (c) A majority of the trustees shall constitute a quorum and all actions taken by
16 the board shall be by affirmative vote of a majority of the trustees present.

17 (9) (a) The board of trustees shall appoint or contract for the services of a chief
18 executive officer and general counsel and fix the compensation and other
19 terms of employment for these positions without limitation of the provisions
20 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer
21 shall serve as the legislative and executive adviser to the board. The general
22 counsel shall serve as legal adviser to the board. The chief executive officer
23 and general counsel shall work with the executive director of the Kentucky
24 Public Pensions Authority to carry out the provisions of KRS 16.505 to
25 16.652 and 61.510 to 61.705. The executive director of the Kentucky Public
26 Pensions Authority shall be the chief administrative officer of the board.

27 (b) Prior to April 1, 2021, the board of trustees shall authorize the executive

1 director to appoint the employees deemed necessary to transact the business of
2 the system. Effective April 1, 2021, the responsibility of appointing
3 employees and managing personnel needs shall be transferred to the Kentucky
4 Public Pensions Authority established by KRS 61.505.

5 (c) The board shall require the chief executive officer and may require the general
6 counsel to execute bonds for the faithful performance of his or her duties
7 notwithstanding the limitations of KRS Chapter 62.

8 (d) The board shall have a system of accounting established by the Kentucky
9 Public Pensions Authority.

10 (e) The board shall do all things, take all actions, and promulgate all
11 administrative regulations, not inconsistent with the provisions of KRS 16.505
12 to 16.652 and 61.510 to 61.705, necessary or proper in order to carry out the
13 provisions of KRS 16.505 to 16.652 and 61.510 to 61.705. Notwithstanding
14 any other evidence of legislative intent, it is hereby declared to be the
15 controlling legislative intent that the provisions of KRS 16.505 to 16.652 and
16 61.510 to 61.705 conform with federal statute or regulation and meet the
17 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
18 regulations, and other published guidance. Provisions of KRS 16.505 to
19 16.652 and 61.510 to 61.705 which conflict with federal statute or regulation
20 or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations,
21 and other published guidance shall not be available. The board shall have the
22 authority to promulgate administrative regulations to conform with federal
23 statute and regulation and to meet the qualification requirements under 26
24 U.S.C. sec. 401(a), including an administrative regulation to comply with 26
25 U.S.C. sec. 401(a)(9).

26 (f) Notwithstanding any other provision of statute to the contrary, including but
27 not limited to any provision of KRS Chapter 12, the Governor shall have no

1 authority to change any provision of KRS 16.505 to 16.652 and 61.510 to
2 61.705 by executive order or action, including but not limited to reorganizing,
3 replacing, amending, or abolishing the membership of the Kentucky
4 Retirement Systems board of trustees.

5 (10) Notwithstanding any statute to the contrary, employees shall not be considered
6 legislative agents under KRS 6.611.

7 (11) The Attorney General, or an assistant designated by him or her, may attend each
8 meeting of the board and may receive the agenda, board minutes, and other
9 information distributed to trustees of the board upon request. The Attorney General
10 may act as legal adviser and attorney for the board, and the board may contract for
11 legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

12 (12) (a) The **Kentucky Public Pensions Authority**~~[system]~~ shall publish an annual
13 financial report showing all receipts, disbursements, assets, and liabilities **for**
14 **the systems**. The annual report shall include a copy of an audit conducted in
15 accordance with generally accepted auditing standards. Except as provided by
16 paragraph (b) of this subsection, the board may select **the**~~[an]~~ independent
17 certified public accountant **hired by the Kentucky Public Pensions Authority**
18 or the Auditor of Public Accounts to perform the audit. If the audit is
19 performed by an independent certified public accountant, the Auditor of
20 Public Accounts shall not be required to perform an audit pursuant to KRS
21 43.050(2)(a), but may perform an audit at his or her discretion. All
22 proceedings and records of the board shall be open for inspection by the
23 public. The **Kentucky Public Pensions Authority**~~[system]~~ shall make copies
24 of the audit required by this subsection available for examination by any
25 member, retiree, or beneficiary in the offices of the Kentucky Public Pensions
26 Authority and in other places as necessary to make the audit available to all
27 members, retirees, and beneficiaries. A copy of the annual audit shall be sent

1 to the Legislative Research Commission no later than ten (10) days after
2 receipt by the board.

3 (b) At least once every five (5) years, the Auditor of Public Accounts shall
4 perform the audit described by this subsection, and the system shall reimburse
5 the Auditor of Public Accounts for all costs of the audit. The Auditor of
6 Public Accounts shall determine which fiscal year during the five (5) year
7 period the audit prescribed by this paragraph will be completed.

8 (13) All expenses incurred by or on behalf of the system and the board in the
9 administration of the system during a fiscal year shall be paid from the retirement
10 allowance account, including any administrative expenses for the Kentucky Public
11 Pensions Authority that are assigned to the Kentucky Retirement Systems by KRS
12 61.505. The board shall submit any administrative expenses that are specific to the
13 Kentucky Retirement Systems that are not otherwise covered by KRS
14 61.505(11)(a).

15 (14) Any person adversely affected by a decision of the board, except as provided under
16 subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652 and
17 61.510 to 61.705, may appeal the decision of the board to the Franklin Circuit Court
18 within sixty (60) days of the board action.

19 (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her
20 duties as a member of a committee:

- 21 1. In good faith;
- 22 2. On an informed basis; and
- 23 3. In a manner he or she honestly believes to be in the best interest of the
24 Kentucky Retirement Systems.

25 (b) A trustee discharges his or her duties on an informed basis if, when he or she
26 makes an inquiry into the business and affairs of the Kentucky Retirement
27 Systems or into a particular action to be taken or decision to be made, he or

1 she exercises the care an ordinary prudent person in a like position would
2 exercise under similar circumstances.

3 (c) In discharging his or her duties, a trustee may rely on information, opinions,
4 reports, or statements, including financial statements and other financial data,
5 if prepared or presented by:

6 1. One (1) or more officers or employees of the Kentucky Retirement
7 Systems whom the trustee honestly believes to be reliable and competent
8 in the matters presented;

9 2. Legal counsel, public accountants, actuaries, or other persons as to
10 matters the trustee honestly believes are within the person's professional
11 or expert competence; or

12 3. A committee of the board of trustees of which he or she is not a member
13 if the trustee honestly believes the committee merits confidence.

14 (d) A trustee shall not be considered as acting in good faith if he or she has
15 knowledge concerning the matter in question that makes reliance otherwise
16 permitted by paragraph (c) of this subsection unwarranted.

17 (e) Any action taken as a trustee, or any failure to take any action as a trustee,
18 shall not be the basis for monetary damages or injunctive relief unless:

19 1. The trustee has breached or failed to perform the duties of the trustee's
20 office in compliance with this section; and

21 2. In the case of an action for monetary damages, the breach or failure to
22 perform constitutes willful misconduct or wanton or reckless disregard
23 for human rights, safety, or property.

24 (f) A person bringing an action for monetary damages under this section shall
25 have the burden of proving by clear and convincing evidence the provisions of
26 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
27 breach or failure to perform was the legal cause of damages suffered by the

1 Kentucky Retirement Systems.

2 (g) Nothing in this section shall eliminate or limit the liability of any trustee for
3 any act or omission occurring prior to July 15, 1988.

4 (h) In discharging his or her administrative duties under this section, a trustee
5 shall strive to administer the retirement system in an efficient and cost-
6 effective manner for the taxpayers of the Commonwealth of Kentucky and
7 shall take all actions available under the law to contain costs for the trusts,
8 including costs for participating employers, members, and retirees.

9 (16) When an order by the system substantially impairs the benefits or rights of a
10 member, retired member, or recipient, except action which relates to entitlement to
11 disability benefits, or when an employer disagrees with an order of the system as
12 provided by KRS 61.598, the affected member, retired member, recipient, or
13 employer may request a hearing to be held in accordance with KRS Chapter 13B.
14 The board may establish an appeals committee whose members shall be appointed
15 by the chair and who shall have authority to act upon the recommendations and
16 reports of the hearing officer on behalf of the board. The member, retired member,
17 recipient, or employer aggrieved by a final order of the board following the hearing
18 may appeal the decision to the Franklin Circuit Court, in accordance with KRS
19 Chapter 13B. The board may establish a joint administrative appeals committee
20 with the County Employees Retirement System and may also establish a joint
21 disability appeals committee with the County Employees Retirement System.

22 (17) The board shall give the Kentucky Education Support Personnel Association
23 twenty-four (24) hours notice of the board meetings, to the extent possible.

24 (18) The board shall establish a formal trustee education program for all trustees of the
25 board. The program shall include but not be limited to the following:

26 (a) A required orientation program for all new trustees elected or appointed to the
27 board. The orientation program shall include training on:

- 1 1. Benefits and benefits administration;
- 2 2. Investment concepts, policies, and current composition and
- 3 administration of retirement systems investments;
- 4 3. Laws, bylaws, and administrative regulations pertaining to the
- 5 retirement systems and to fiduciaries; and
- 6 4. Actuarial and financial concepts pertaining to the retirement systems.

7 If a trustee fails to complete the orientation program within one (1) year from
8 the beginning of his or her first term on the board, the retirement systems shall
9 withhold payment of the per diem and travel expenses due to the board
10 member under this section and KRS 16.640 until the trustee has completed the
11 orientation program;

12 (b) Annual required training for board members on the administration, benefits,
13 financing, and investing of the retirement systems. If a trustee fails to
14 complete the annual required training during the calendar or fiscal year, the
15 retirement systems shall withhold payment of the per diem and travel
16 expenses due to the board member under this section and KRS 16.640 until
17 the board member has met the annual training requirements; and

18 (c) The retirement systems shall incorporate by reference in an administrative
19 regulation, pursuant to KRS 13A.2251, the trustee education program.

20 (19) In order to improve public transparency regarding the administration of the systems,
21 the board of trustees shall adopt a best practices model by posting the following
22 information to the Kentucky Public Pensions Authority's Web site and shall make
23 available to the public:

24 (a) Meeting notices and agendas for all meetings of the board. Notices and
25 agendas shall be posted to the Kentucky Public Pensions Authority's Web site
26 at least seventy-two (72) hours in advance of the board or committee
27 meetings, except in the case of special or emergency meetings as provided by

1 KRS 61.823;

2 (b) The Comprehensive Annual Financial Report with the information as follows:

- 3 1. A general overview and update on the retirement systems by the
4 executive director;
- 5 2. A listing of the board of trustees;
- 6 3. A listing of key staff;
- 7 4. An organizational chart;
- 8 5. Financial information, including a statement of plan net assets, a
9 statement of changes in plan net assets, an actuarial value of assets, a
10 schedule of investments, a statement of funded status and funding
11 progress, and other supporting data;
- 12 6. Investment information, including a general overview, a list of the
13 retirement system's professional consultants, a total net of fees return on
14 retirement systems investments over a historical period, an investment
15 summary, contracted investment management expenses, transaction
16 commissions, and a schedule of investments;
- 17 7. The annual actuarial valuation report on the pension benefit and the
18 medical insurance benefit; and
- 19 8. A general statistical section, including information on contributions,
20 benefit payouts, and retirement systems' demographic data;
- 21 (c) All external audits;
- 22 (d) All board minutes or other materials that require adoption or ratification by
23 the board of trustees. The items listed in this paragraph shall be posted within
24 seventy-two (72) hours of adoption or ratification of the board;
- 25 (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
- 26 (f) The retirement systems' summary plan description;
- 27 (g) A document containing an unofficial copy of the statutes governing the

1 systems administered by Kentucky Retirement Systems;

2 (h) A listing of the members of the board of trustees and membership on each
3 committee established by the board, including any investment committees;

4 (i) All investment holdings in aggregate, fees, and commissions for each fund
5 administered by the board, which shall be updated on a quarterly basis for
6 fiscal years beginning on or after July 1, 2017. The systems shall request from
7 all managers, partnerships, and any other available sources all information
8 regarding fees and commissions and shall, based on the requested information
9 received:

- 10 1. Disclose the dollar value of fees and commissions paid to each
11 individual manager or partnership;
- 12 2. Disclose the dollar value of any profit sharing, carried interest, or any
13 other partnership incentive arrangements, partnership agreements, or any
14 other partnership expenses received by or paid to each manager or
15 partnership; and
- 16 3. As applicable, report each fee or commission by manager or partnership
17 consistent with standards established by the Institutional Limited
18 Partners Association (ILPA).

19 In addition to the requirements of this paragraph, the systems shall also
20 disclose the name and address of all individual underlying managers or
21 partners in any fund of funds in which system assets are invested;

22 (j) An update of net of fees investment returns, asset allocations, and the
23 performance of the funds against benchmarks adopted by the board for each
24 fund, for each asset class administered by the board, and for each manager.
25 The update shall be posted on a quarterly basis for fiscal years beginning on or
26 after July 1, 2017;

27 (k) A searchable database of the systems' expenditures and a listing of each

1 individual employed by the systems along with the employee's salary or
2 wages. In lieu of posting the information required by this paragraph to the
3 Kentucky Public Pensions Authority's Web site, the systems may provide the
4 information through a Web site established by the executive branch to inform
5 the public about executive branch agency expenditures and public employee
6 salaries and wages;

7 (l) All contracts or offering documents for services, goods, or property purchased
8 or utilized by the systems; and

9 (m) Information regarding the systems' financial and actuarial condition that is
10 easily understood by the members, retired members, and the public.

11 (20) Notwithstanding the requirements of subsection (19) of this section, the retirement
12 systems shall not be required to furnish information that is protected under KRS
13 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the
14 retirement systems' ability to competitively invest in real estate or other asset
15 classes, except that no provision of this section or KRS 61.878 shall exclude
16 disclosure and review of all contracts, including investment contracts, by the board,
17 the Auditor of Public Accounts, and the Government Contract Review Committee
18 established pursuant to KRS 45A.705 or the disclosure of investment fees and
19 commissions as provided by this section. If any public record contains material
20 which is not excepted under this section, the systems shall separate the excepted
21 material by removal, segregation, or redaction, and make the nonexcepted material
22 available for examination.

23 (21) Notwithstanding any other provision of KRS 16.505 to 16.652 and 61.510 to 61.705
24 to the contrary, no funds of the systems administered by Kentucky Retirement
25 Systems, including fees and commissions paid to an investment manager, private
26 fund, or company issuing securities, who manages systems assets, shall be used to
27 pay fees and commissions to placement agents. For purposes of this subsection,

1 "placement agent" means a third-party individual, who is not an employee, or firm,
2 wholly or partially owned by the entity being hired, who solicits investments on
3 behalf of an investment manager, private fund, or company issuing securities.

4 ➔Section 12. KRS 61.661 is amended to read as follows:

5 (1) (a) Each current, former, or retired member's account shall be administered in a
6 confidential manner, and specific data regarding a current, former, or retired
7 member shall not be released for publication, except that:

8 1. The member or recipient may authorize the release of his or her account
9 information;

10 2. The Kentucky Public Pensions Authority~~[Kentucky Retirement~~
11 ~~Systems]~~ may release account information to the employer or to other
12 state and federal agencies as it deems necessary or in response to a
13 lawful subpoena or order issued by a court of law; or

14 3. a. Upon request by any person, the systems shall release the
15 following information from the accounts of any member or retired
16 member of the Kentucky Employees Retirement System, the
17 County Employees Retirement System, or the State Police
18 Retirement System, if the member or retired member is a current
19 or former officeholder in the Kentucky General Assembly:

20 i. The first and last name of the member or retired member;

21 ii. The system or systems in which the member has an account
22 or from which the retired member is receiving a monthly
23 retirement allowance;

24 iii. The status of the member or retired member, including but
25 not limited to whether he or she is a contributing member, a
26 member who is not currently contributing to the systems but
27 has not retired, a retired member, or a retired member who

- 1 has returned to work following retirement with an agency
2 participating in the systems;
- 3 iv. If the individual is a retired member, the monthly retirement
4 allowance that he or she was receiving at the end of the most
5 recently completed fiscal year;
- 6 v. If the individual is a member who has not yet retired, the
7 estimated monthly retirement allowance that he or she is
8 eligible to receive at his or her normal retirement date based
9 upon his or her service credit, final compensation, and
10 accumulated account balance at the end of the most recently
11 completed fiscal year; and
- 12 vi. The current employer or last participating employer of the
13 member or retired member, if applicable.
- 14 b. No information shall be disclosed under this subparagraph from an
15 account that is paying benefits to a beneficiary due to the death of
16 a member or retired member.
- 17 (b) A current, former, or retired member's account shall be exempt from the
18 provisions of KRS 171.410 to 171.990.
- 19 (c) The release of information under paragraph (a)3. of this subsection shall not
20 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.
- 21 (2) (a) When a subpoena is served upon any employee of the Kentucky Retirement
22 Systems, the County Employees Retirement System, or the Kentucky Public
23 Pensions Authority, requiring production of any specific data regarding a
24 current, former, or retired member, it is sufficient if the employee of the
25 Kentucky Public Pensions Authority ~~Retirement Systems~~ charged with the
26 responsibility of being custodian of the original delivers within five (5)
27 working days, by certified mail or by personal delivery, legible and durable

1 copies of records, certified by the employee, or an affidavit stating the
2 information required by the subpoena to the person specified in the subpoena.
3 The production of documents or an affidavit shall be in lieu of any personal
4 testimony of any employee of the Kentucky Retirement Systems, the County
5 Employees Retirement System, or the Kentucky Public Pensions Authority,
6 unless, after the production of documents or affidavit, a separate subpoena is
7 served upon the systems or the Authority specifically directing the testimony
8 of an employee of the systems or of the Authority. When a subpoena is served
9 on any employee of the systems or of the Authority requiring the employee to
10 give deposition for any purpose, in the absence of a court order requiring the
11 deposition of a specific employee, the systems or the Authority may designate
12 an employee to be deposed upon the matter referred to in the subpoena.

13 (b) The certification required by this subsection shall be signed before a notary
14 public by the employee and shall include the full name of the member or
15 recipient, the member's or recipient's Social Security number, and a legend
16 substantially to the following effect: "The records are true and complete
17 reproductions of the original or microfiched records which are housed in the
18 retirement systems office. This certification is given in lieu of his or her
19 personal appearance."

20 (c) When an affidavit or copies of records are personally delivered, a receipt shall
21 be presented to the person receiving the records for his or her signature and
22 shall be immediately signed and returned to the person delivering the records.
23 When an affidavit or copies of records are sent via certified mail, the receipt
24 used by the postal authorities shall be sufficient to prove delivery and receipt
25 of the affidavit or copies of records.

26 (d) When the affidavit or copies of records are delivered to a party for use in
27 deposition, they shall, after termination of the deposition, be delivered

1 personally or by certified mail to the clerk of the court or other body before
2 which the action or proceeding is pending. It shall be the responsibility of the
3 party or attorney to transmit the receipt obtained to the employee of the
4 Kentucky Public Pensions Authority~~[Retirement Systems]~~ charged with
5 responsibility of being custodian of the original. Upon issuance of a final
6 order terminating the case and after the normal retention period for court
7 records expires, the affidavit or copies of records shall be permanently
8 disposed of by the clerk in a manner that protects the confidentiality of the
9 information contained therein.

- 10 (e) Records of the Kentucky Public Pensions Authority~~[Retirement Systems]~~
11 that are susceptible to photostatic reproduction may be proved as to
12 foundation, identity, and authenticity without any preliminary testimony, by
13 use of legible and durable copies, certified in accordance with the provisions
14 of this subsection.

15 ➔Section 13. KRS 61.665 is amended to read as follows:

- 16 (1) The Authority shall employ or contract for the services of at least three (3)
17 physicians, licensed in the state and not members of the system, upon terms and
18 conditions it prescribes to serve as medical examiners, whose duty it shall be to pass
19 upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to
20 16.652, and 78.510 to 78.852, to investigate all health or medical statements and
21 certificates made by or in behalf of any person in connection with the payment of
22 money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to
23 78.852, and who shall report in writing to the system the conclusions and
24 recommendations upon all matters referred to them. The Authority may employ or
25 contract for the services of one (1) or more licensed mental health professionals in
26 making recommendations regarding mental impairments.

- 27 (2) (a) Each person requesting disability retirement shall file at the retirement office

1 an application for disability retirement and supporting medical information to
2 report the person's physical and mental condition. The person shall also file at
3 the retirement office a complete description of the job and duties from which
4 he or she received his or her last pay as well as information regarding
5 whether~~[evidence that]~~ the person has made a request for reasonable
6 accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part
7 1630 or reasonable accommodation as provided for in 42 U.S.C. sec.
8 12111(9) and 29 C.F.R. Part 1630 has been offered to the person. The
9 person shall certify to the retirement office that the application for disability
10 retirement and supporting medical information are ready to be evaluated by
11 the medical examiners in accordance with paragraph (d) of this subsection. If,
12 after good faith efforts, the person informs the Authority that he or she has
13 been unable to obtain the employment or medical information, the Authority
14 shall assist the person in obtaining the records and may use the authority
15 granted pursuant to KRS 61.685(1) to obtain the records. If the person fails to
16 file, at the retirement office within one hundred eighty (180) days of the date
17 the person filed his or her notification of retirement, any of the forms,
18 certifications, or information required by this subsection, the person's
19 application for disability retirement shall be void. Any subsequent filing of an
20 application for disability retirement or supporting medical information shall
21 not be evaluated, except as provided in paragraph (f) of this subsection or
22 KRS 61.600(2), 78.5522, or 78.5524.

23 (b) The employer shall file at the retirement office a complete description of the
24 job and duties for which the person was last paid and shall submit a detailed
25 description of any reasonable accommodations attempted.

26 (c) The cost of medical examinations and the filing of the medical information,
27 reports, or data with the retirement office shall be paid by the person applying

1 for disability retirement.

2 (d) The Authority shall select three (3) medical examiners to evaluate the medical
3 evidence submitted by the person. The medical examiners shall recommend
4 that disability retirement be approved, or that disability retirement be denied.
5 If there is evidence of a mental impairment, the medical examiners may
6 request the Authority's licensed mental health professional to assist in
7 determining the level of the mental impairment.

8 (e) If two (2) or more of the three (3) medical examiners recommend that the
9 person be approved for disability retirement, the system shall make retirement
10 payments in accordance with the retirement plan selected by the person.

11 (f) If two (2) or more of the three (3) medical examiners recommend that the
12 person be denied disability retirement, the Authority shall send notice of this
13 recommendation by United States first-class mail to the person's last address
14 on file in the retirement office, by electronic mail to the person's last
15 electronic mail address on file in the retirement office, or by other electronic
16 means. The person shall have one hundred eighty (180) days from the day that
17 the Authority ~~sent~~~~mailed~~ the notice to file at the retirement office additional
18 supporting medical information and certify to the retirement office that the
19 application for disability retirement and supporting medical information are
20 ready to be evaluated by the medical examiners or to appeal his or her denial
21 of disability retirement by filing at the retirement office a request for a formal
22 hearing. Any subsequent filing of an application for disability retirement or
23 supporting medical information shall not be evaluated, except as provided in
24 KRS 61.600(2), 78.5522, or 78.5524.

25 (g) If two (2) or more of the three (3) medical examiners recommend that the
26 person be approved for disability retirement based upon the evaluation of
27 additional supporting medical information in accordance with paragraph (f) of

1 this subsection, the system shall make retirement payments in accordance with
2 the retirement plan selected by the person.

3 (h) If two (2) or more of the three (3) medical examiners recommend that the
4 person be denied disability retirement based upon the evaluation of additional
5 supporting medical information in accordance with paragraph (f) of this
6 subsection, the Authority shall send notice of this recommendation by United
7 States first-class mail to the person's last address on file in the retirement
8 office, by electronic mail to the person's last electronic mail address on file
9 in the retirement office, or by other electronic means. The person shall have
10 one hundred eighty (180) days from the day that the Authority ~~sent~~~~mailed~~
11 the notice to appeal his or her denial of disability retirement by filing at the
12 retirement office a request for a formal hearing.

13 (i) The medical examiners shall be paid a reasonable amount by the retirement
14 system for each case evaluated.

15 (j) Notwithstanding the foregoing provisions of this section, the Authority may
16 pay for one (1) or more medical examinations of the person requested by the
17 medical examiners for the purpose of providing medical information deemed
18 necessary by the medical examiners. The system may require the person to
19 submit to one (1) or more medical examinations.

20 (3) (a) Any person whose disability benefits have been reduced, discontinued, or
21 denied pursuant to subsection (2)(f) or (2)(h) of this section may file at the
22 retirement office a request for a formal hearing to be conducted in accordance
23 with KRS Chapter 13B. The right to demand a formal hearing shall be limited
24 to a period of one hundred eighty (180) days after the person had notice of the
25 system's determination, as described in subsection (2)(f) or (2)(h) of this
26 section. The request for a formal hearing shall be filed with the executive
27 director, at the retirement office in Frankfort. The request for a formal hearing

1 shall include a short and plain statement of the reasons the denial of disability
2 retirement is being contested.

3 (b) Failure of the person to request a formal hearing within the period of time
4 specified shall preclude the person from proceeding any further with the
5 application for disability retirement, except as provided in KRS 61.600(2),
6 78.5522, or 78.5524. This paragraph shall not limit the person's right to appeal
7 to a court.

8 (c) The system may require the person requesting the formal hearing to submit to
9 one (1) or more medical or psychological examinations. Notice of the time
10 and place of the examination shall be provided~~mailed~~ to the person or his or
11 her legal representative. The system shall be responsible for the cost of the
12 examination.

13 (d) A final order of the board shall be based on substantial evidence appearing in
14 the record as a whole and shall set forth the decision of the board and the facts
15 and law upon which the decision is based.

16 (e) All requests for a hearing pursuant to this section shall be made in writing.

17 (4) The~~[-board]~~ **boards of the Kentucky Retirement Systems and the County**
18 **Employees Retirement Systems** may **each** establish an appeals committee whose
19 members shall be appointed by the chair and **that**~~who~~ shall have the authority to
20 act upon the recommendations and reports of the hearing officer pursuant to this
21 section on behalf of **each respective**~~the~~ board. The **boards**~~Authority may, upon~~
22 ~~the joint approval of the board~~ of the Kentucky Retirement Systems and the County
23 Employees Retirement System **may**~~,~~ establish **a joint**~~an~~ appeals committee **that**
24 **shall be authorized to select a chair from among its committee members**
25 **and**~~whose members shall be appointed by the chair of the Authority and who have~~
26 ~~the authorization~~ to act upon the recommendations and reports of the hearing
27 officer pursuant to this section on behalf of both boards.

1 (5) Any person aggrieved by a final order of the board may seek judicial review after all
2 administrative appeals have been exhausted by filing a petition for judicial review
3 in the Franklin Circuit Court in accordance with KRS Chapter 13B.

4 ~~[(6) The system, pursuant to regulations, may refer an employee determined by it to be
5 disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if
6 appropriate, retraining.~~

7 ~~(a) The cost of the evaluation and retraining shall be paid by the system in
8 accordance with the regulations established by the board.~~

9 ~~(b) The member shall perform all acts that are necessary to enroll in and satisfy
10 the requirements of Vocational Rehabilitation as prescribed by the board. This
11 shall include the exchange of confidential information between Kentucky
12 Retirement Systems and the Kentucky Office of Vocational Rehabilitation as
13 necessary to conduct the rehabilitation process. Failure of the member to
14 cooperate with the system or Vocational Rehabilitation may result in his or
15 her disability allowance being discontinued, reduced, or denied until the
16 member complies with the agency requests. If the refusal continues for one (1)
17 year, all his or her rights to any further disability allowance shall cease.]~~

18 ➔Section 14. KRS 61.702 is amended to read as follows:

19 (1) For purposes of this section:

20 (a) "Hospital and medical insurance plan" may include, at the board's discretion,
21 any one (1) or more of the following:

- 22 1. Any hospital and medical expense policy or certificate, provider-
23 sponsored integrated health delivery network, self-insured medical plan,
24 health maintenance organization contract, or other health benefit plan;
- 25 2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health
26 reimbursement arrangement or a similar account as may be permitted by
27 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's

1 discretion, may reimburse any medical expense permissible under 26
2 U.S.C. sec. 213; or

3 3. A medical insurance reimbursement program established by the board
4 through the promulgation of administrative regulation under which
5 members purchase individual health insurance coverage through a health
6 insurance exchange established under 42 U.S.C. sec. 18031 or 18041;

7 (b) "Monthly contribution rate" is the amount determined by the board based
8 upon the requirements of subsection (4)(a) to (c) of this section, except that
9 for members who began participating in the system on or after July 1, 2003,
10 the term shall mean the amount determined in subsection (4)(d) of this
11 section; and

12 (c) "Months of service" means the total months of combined service used to
13 determine benefits under the system, except service added to determine
14 disability benefits or service otherwise prohibited from being used to
15 determine retiree health benefits under KRS 16.505 to 16.652 or 61.510 to
16 61.705 shall not be counted as "months of service." For current and former
17 employees of the Council on Postsecondary Education who were employed
18 prior to January 1, 1993, and who earn at least fifteen (15) years of service
19 credit in the Kentucky Employees Retirement System, "months of service"
20 shall also include vested service in another retirement system other than the
21 Kentucky Teachers' Retirement System sponsored by the Council on
22 Postsecondary Education.

23 (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract
24 or on a self-insured basis to provide a group hospital and medical
25 insurance plan coverage for:

26 a. Present and future recipients of a retirement allowance from the
27 Kentucky Employees Retirement System and the State Police

1 Retirement System; and

2 b. The spouse and each qualified dependent of a recipient who is a
3 former member or the beneficiary, provided the spouse and
4 dependent meet the requirements to participate in the hospital and
5 medical insurance plans established, contracted, or authorized by
6 the system.

7 2. Any recipient who chooses coverage under a hospital and medical
8 insurance plan shall pay, by payroll deduction from the retirement
9 allowance, electronic funds transfer, or by another method, the
10 difference between the premium cost of the hospital and medical
11 insurance plan coverage selected and the monthly contribution rate to
12 which he or she would be entitled under this section.

13 (b) 1. For present and future recipients of a retirement allowance from the
14 system who are not eligible for Medicare and for those recipients
15 described in subparagraph 3.b. of this paragraph, the board may
16 authorize these participants to be included in the Kentucky Employees
17 Health Plan as provided by KRS 18A.225 to 18A.2287 and shall provide
18 benefits for recipients in the plan equal to those provided to state
19 employees having the same Medicare hospital and medical insurance
20 eligibility status. Notwithstanding the provisions of any other statute
21 except subparagraph 3.b. of this paragraph, system recipients shall be
22 included in the same class as current state employees for purposes of
23 determining medical insurance policies and premiums in the Kentucky
24 Employees Health Plan as provided by KRS 18A.225 to 18A.2287.

25 2. Regardless of age, if a recipient or the spouse or dependent child of a
26 recipient who elects coverage becomes eligible for Medicare, he or she
27 shall participate in the plans offered by the systems for Medicare eligible

1 recipients. Individuals participating in the Medicare eligible plans may
2 be required to obtain and pay for Medicare Part A and Part B coverage,
3 in order to participate in the Medicare eligible plans offered by the
4 system.

- 5 3. The system shall continue to provide the same hospital and medical
6 insurance plan coverage for recipients and qualifying dependents after
7 the age of sixty-five (65) as before the age of sixty-five (65), if:

8 a. The recipient is not eligible for Medicare coverage; or

9 b. *The recipient would otherwise be eligible for Medicare coverage*
10 *but is subject to the Medicare Secondary Payer Act under 42*
11 *U.S.C. sec. 1395y(b) and has been reemployed by a participating*
12 *agency which offers the recipient a hospital and medical*
13 *insurance benefit or by a participating agency which is prevented*
14 *from offering a hospital and medical benefit to the recipient as a*
15 *condition of reemployment under KRS 70.293, 95.022, or*
16 *164.952. Individuals who are eligible, pursuant to this*
17 *subdivision, to be included in the Kentucky Employees Health*
18 *Plan as provided by KRS 18A.225 to 18A.2287 may be rated as a*
19 *separate class from other eligible employees and retirees for the*
20 *purpose of determining medical insurance premiums.*

- 21 (c) For recipients of a retirement allowance who are not eligible for the same
22 level of hospital and medical benefits as recipients living in Kentucky having
23 the same Medicare hospital and medical insurance eligibility status, the board
24 shall provide a medical insurance reimbursement plan as described in
25 subsection (6) of this section.

- 26 (d) Notwithstanding anything in KRS Chapter 16 or 61 to the contrary, the board
27 of trustees, in its discretion, may take necessary steps to ensure compliance

1 with 42 U.S.C. secs. 300bb-1 et seq.

2 (3) (a) Each employer participating in the Kentucky Employees Retirement System
3 or the State Police Retirement System as provided in KRS 16.505 to 16.652 or
4 61.510 to 61.705 shall contribute to the insurance trust fund established under
5 KRS 61.701 the amount necessary to provide the monthly contribution rate as
6 provided for under this section. Such employer contribution rate shall be
7 developed by appropriate actuarial method as a part of the determination of
8 each respective employer contribution rate determined under KRS 61.565.

9 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct
10 from the creditable compensation of each member whose membership
11 date begins on or after September 1, 2008, an amount equal to one
12 percent (1%) of the member's creditable compensation. The deducted
13 amounts shall, at the discretion of the board, be credited to accounts
14 established pursuant to 26 U.S.C. sec. 401(h), within the funds
15 established in KRS 16.510 and 61.515, or the insurance trust fund
16 established under KRS 61.701. Notwithstanding the provisions of this
17 paragraph, a transfer of assets between the accounts established pursuant
18 to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510
19 and 61.515, and the insurance trust fund established under KRS 61.701
20 shall not be allowed.

21 2. The employer shall file the contributions as provided by subparagraph 1.
22 of this paragraph at the retirement office in accordance with KRS
23 61.675. Any interest or penalties paid on any delinquent contributions
24 shall be credited to accounts established pursuant to 26 U.S.C. sec.
25 401(h), within the funds established in KRS 16.510 and 61.515, or the
26 insurance trust fund established under KRS 61.701. Notwithstanding any
27 minimum compensation requirements provided by law, the deductions

- 1 provided by this paragraph shall be made, and the compensation of the
2 member shall be reduced accordingly.
- 3 3. Each employer shall submit payroll reports, contributions lists, and other
4 data as may be required by administrative regulation promulgated by the
5 board of trustees pursuant to KRS Chapter 13A.
- 6 4. Every member shall be deemed to consent and agree to the deductions
7 made pursuant to this paragraph, and the payment of salary or
8 compensation less the deductions shall be a full and complete discharge
9 of all claims for services rendered by the person during the period
10 covered by the payment, except as to any benefits provided by KRS
11 16.505 to 16.652 or 61.510 to 61.705. No member may elect whether to
12 participate in, or choose the contribution amount to accounts established
13 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
14 16.510 and 61.515, or the insurance trust fund established under KRS
15 61.701. The member shall have no option to receive the contribution
16 required by this paragraph directly instead of having the contribution
17 paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the
18 funds established in KRS 16.510 and 61.515, or the insurance trust fund
19 established under KRS 61.701. No member may receive a rebate or
20 refund of contributions. If a member establishes a membership date prior
21 to September 1, 2008, pursuant to KRS 61.552(2) or (3), then this
22 paragraph shall not apply to the member and all contributions previously
23 deducted in accordance with this paragraph shall be refunded to the
24 member without interest. The contribution made pursuant to this
25 paragraph shall not act as a reduction or offset to any other contribution
26 required of a member or recipient under KRS 16.505 to 16.652 or
27 61.510 to 61.705.

1 5. The board of trustees, at its discretion, may direct that the contributions
2 required by this paragraph be accounted for within accounts established
3 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
4 16.510 and 61.515, or the insurance trust fund established under KRS
5 61.701, through the use of separate accounts.

6 (4) (a) The premium required to provide hospital and medical insurance plan
7 coverage under this section shall be paid wholly or partly from funds
8 contributed by:

9 1. The recipient of a retirement allowance, by payroll deduction from his or
10 her retirement allowance, or by other method;

11 2. The insurance trust fund established under KRS 61.701 or accounts
12 established pursuant to 26 U.S.C. sec. 401(h) within the funds
13 established in KRS 16.510 and 61.515;

14 3. Another state-administered retirement system, including the County
15 Employees Retirement System, under a reciprocal arrangement, except
16 that any portion of the premium paid from the funds specified by
17 subparagraph 2. of this paragraph under a reciprocal agreement shall not
18 exceed the amount that would be payable under this section if all the
19 member's service were in the systems administered by the Kentucky
20 Retirement Systems. If the board provides for cross-referencing of
21 insurance premiums, the employer's contribution for the working
22 member or spouse shall be applied toward the premium, and the
23 insurance trust fund established under KRS 61.701 or accounts
24 established pursuant to 26 U.S.C. sec. 401(h) within the funds
25 established in KRS 16.510 and 61.515 shall pay the balance; or

26 4. A combination of the fund sources described by subparagraphs 1. to 3.
27 of this paragraph.

1 Group rates under the hospital and medical insurance plan shall be made
2 available to the spouse, each dependent child, and each disabled child,
3 regardless of the disabled child's age, of a recipient who is a former member
4 or the beneficiary, if the premium for the hospital and medical insurance for
5 the spouse, each dependent child, and each disabled child, or beneficiary is
6 paid by payroll deduction from the retirement allowance, electronic funds
7 transfer, or by another method. For purposes of this subsection only, a child
8 shall be considered disabled if he or she has been determined to be eligible for
9 federal Social Security disability benefits or meets the dependent disability
10 standard established by the Department of Employee Insurance in the
11 Personnel Cabinet.

12 (b) For a member who began participating in the system prior to July 1, 2003, the
13 monthly contribution rate shall be paid by the system from the funds specified
14 under paragraph (a)2. of this subsection and shall be equal to a percentage of
15 the single premium to cover the retired member as follows:

- 16 1. One hundred percent (100%) of the monthly premium for single
17 coverage shall be paid for a retired member who had two hundred forty
18 (240) months of service or more upon retirement or for a retired member
19 who when he or she was an employee became disabled as a direct result
20 of an act in line of duty as defined in KRS 16.505 or as a result of a
21 duty-related injury as defined in KRS 61.621;
- 22 2. Seventy-five percent (75%) of the monthly premium for single coverage
23 shall be paid for a retired member who had less than two hundred forty
24 (240) months of service but at least one hundred eighty (180) months of
25 service upon retirement, provided such retired member agrees to pay the
26 remaining twenty-five percent (25%) by payroll deduction from his or
27 her retirement allowance, electronic funds transfer, or by another

1 method;

- 2 3. Fifty percent (50%) of the monthly premium for single coverage shall be
3 paid for a retired member who had less than one hundred eighty (180)
4 months of service but had at least one hundred twenty (120) months of
5 service upon retirement, provided such retired member agrees to pay the
6 remaining fifty percent (50%) by payroll deduction from his or her
7 retirement allowance, electronic funds transfer, or by another method; or
8 4. Twenty-five percent (25%) of the monthly premium for single coverage
9 shall be paid for a retired member who had less than one hundred twenty
10 (120) months of service but had at least forty-eight (48) months of
11 service upon retirement, provided such retired member agrees to pay the
12 remaining seventy-five percent (75%) by payroll deduction from his or
13 her retirement allowance, electronic funds transfer, or by another
14 method.

15 Notwithstanding the foregoing provisions of this paragraph, an employee
16 participating in the system prior to July 1, 2003, who is killed as a direct result
17 of an act in line of duty as defined in KRS 16.505 or as a result of a duty-
18 related injury as defined in KRS 61.621, shall have the monthly premium paid
19 for the beneficiary, if the beneficiary is the member's spouse, and for each
20 dependent child as defined by KRS 16.505, so long as they individually
21 remain eligible for a monthly retirement benefit.

- 22 (c) 1. For a member who began participating in the system prior to July 1,
23 2003, who was determined to be in a hazardous position in the Kentucky
24 Employees Retirement System or in a position in the State Police
25 Retirement System, the funds specified under paragraph (a)2. of this
26 subsection shall also pay a percentage of the monthly contribution rate
27 sufficient to fund the premium costs for hospital and medical insurance

1 coverage for the spouse and for each dependent child of a recipient.

2 2. The percentage of the monthly contribution rate paid for the spouse and
3 each dependent child of a recipient who was in a hazardous position in
4 accordance with subparagraph 1. of this paragraph shall be based solely
5 on the member's service in a hazardous position using the formula in
6 paragraph (b) of this subsection.

7 (d) For members who begin participating in the system on or after July 1, 2003:

8 1. Participation in the insurance benefits provided under this section shall
9 not be allowed until the member has earned at least one hundred twenty
10 (120) months of service in the state-administered retirement systems,
11 except that for members who begin participating in the system on or
12 after September 1, 2008, participation in the insurance benefits provided
13 under this section shall not be allowed until the member has earned at
14 least one hundred eighty (180) months of service credited under KRS
15 16.543(1) or 61.543(1), or another state-administered retirement system.

16 2. A member who meets the minimum service requirements as provided by
17 subparagraph 1. of this paragraph shall upon retirement be eligible for
18 the following monthly contribution rate to be paid on his or her behalf
19 from the funds specified under paragraph (a)2. of this subsection:

20 a. For members with service in a nonhazardous position, a monthly
21 insurance contribution of ten dollars (\$10) for each year of service
22 as a participating employee in a nonhazardous position; and

23 b. For members with service in a hazardous position or who
24 participate in the State Police Retirement System, a monthly
25 insurance contribution of fifteen dollars (\$15) for each year of
26 service as a participating employee in a hazardous position or the
27 State Police Retirement System. Upon the death of the retired

1 member, the beneficiary, if the beneficiary is the member's spouse,
2 shall be entitled to a monthly insurance contribution of ten dollars
3 (\$10) for each year of service the member attained as a
4 participating employee in a hazardous position.

5 3. The minimum service requirement to participate in benefits as provided
6 by subparagraph 1. of this paragraph shall be waived for a member who
7 becomes disabled as a direct result of an act in line of duty as defined in
8 KRS 16.505 or who dies as a result of a duty-related injury as defined in
9 KRS 61.621, and the member shall be entitled to the benefits payable
10 under this subsection as though the member had twenty (20) years of
11 service in the position for which the disabling condition occurred.

12 4. Notwithstanding the provisions of this paragraph, the minimum service
13 requirement to participate in benefits as provided by subparagraph 1. of
14 this paragraph shall be waived for a for a member who dies as a direct
15 result of an act in line of duty as defined in KRS 16.505 or who dies as a
16 result of a duty-related injury as defined in KRS 61.621, and the
17 premium for the member's spouse and for each dependent child as
18 defined in KRS 16.505 shall be paid in full by the systems so long as
19 they individually remain eligible for a monthly retirement benefit.

20 5. Except as provided by subparagraph 4. of this paragraph, the monthly
21 insurance contribution amount shall be increased July 1 of each year by
22 one and one-half percent (1.5%). The increase shall be cumulative and
23 shall continue to accrue after the member's retirement for as long as a
24 monthly insurance contribution is payable to the retired member or
25 beneficiary.

26 6. The benefits of this paragraph provided to a member whose participation
27 begins on or after July 1, 2003, shall not be considered as benefits

1 protected by the inviolable contract provisions of KRS 16.652 or 61.692.
2 The General Assembly reserves the right to suspend or reduce the
3 benefits conferred in this paragraph if in its judgment the welfare of the
4 Commonwealth so demands.

5 7. An employee whose membership date is on or after September 1, 2008,
6 who retires and is reemployed in a regular full-time position required to
7 participate in the system or the County Employees Retirement System
8 shall not be eligible for health insurance coverage or benefits provided
9 by this section and shall take coverage with his or her employing agency
10 during the period of reemployment in a regular full-time position.

11 (e) For members with service in another state-administered retirement system
12 who select hospital and medical insurance plan coverage through the system:

13 1. The system shall compute the member's combined service, including
14 service credit in another state-administered retirement system, and
15 calculate the portion of the member's premium monthly contribution rate
16 to be paid by the funds specified under paragraph (a)2. of this subsection
17 according to the criteria established in paragraphs (a) to (d) of this
18 subsection. Each state-administered retirement system shall pay annually
19 to the insurance trust fund established under KRS 61.701 the portion of
20 the system's cost of the retiree's monthly contribution for single coverage
21 for hospital and medical insurance plan which shall be equal to the
22 percentage of the member's number of months of service in the other
23 state-administered retirement plan divided by his or her total combined
24 service and in conjunction with the reciprocal agreement established
25 between the system and the other state-administered retirement systems.
26 The amounts paid by the other state-administered retirement plans and
27 by the Kentucky Retirement Systems from funds specified under

1 paragraph (a)2. of this subsection shall not be more than one hundred
2 percent (100%) of the monthly contribution adopted by the respective
3 boards of trustees;

4 2. A member may not elect coverage for hospital and medical benefits
5 through more than one (1) of the state-administered retirement systems;
6 and

7 3. A state-administered retirement system shall not pay any portion of a
8 member's monthly contribution for medical insurance unless the member
9 is a recipient or annuitant of the plan.

10 (5) Premiums paid for hospital and medical insurance coverage procured under
11 authority of this section shall be exempt from any premium tax which might
12 otherwise be required under KRS Chapter 136. The payment of premiums by the
13 funds described by subsection (4)(a)2. of this section shall not constitute taxable
14 income to an insured recipient. No commission shall be paid for hospital and
15 medical insurance procured under authority of this section.

16 (6) The board shall promulgate an administrative regulation to establish a medical
17 insurance reimbursement plan to provide reimbursement for hospital and medical
18 insurance plan premiums of recipients of a retirement allowance who are not
19 eligible for the same level of hospital and medical benefits as recipients living in
20 Kentucky and having the same Medicare hospital and medical insurance eligibility
21 status. An eligible recipient shall file proof of payment for hospital and medical
22 insurance plan coverage with the retirement office. Reimbursement to eligible
23 recipients shall be made on a quarterly basis. The recipient shall be eligible for
24 reimbursement of substantiated medical insurance premiums for an amount not to
25 exceed the total monthly contribution rate determined under subsection (4) of this
26 section. The plan shall not be made available if all recipients are eligible for the
27 same coverage as recipients living in Kentucky.

1 ➔Section 15. KRS 61.703 is amended to read as follows:

- 2 (1) Upon the death of a member, retiree, or recipient who has an existing account or
3 other benefit in a retirement system administered by the Kentucky Retirement
4 Systems that totals no more than one thousand dollars (\$1,000), the surviving
5 spouse, or if none, a surviving child, or if none, a surviving parent, or if none, a
6 surviving brother or sister, may without formal administration of the estate collect
7 the account subject to the provisions of this section.
- 8 (2) The surviving spouse, child, parent, or brother or sister who makes demand for the
9 deceased member, retiree, or recipient account shall file with the retirement office
10 an affidavit stating that he or she is entitled to payment of the account. The affidavit
11 shall conform to the requirements of the administrative regulation promulgated by
12 the board.
- 13 (3) After having paid the account to the surviving spouse, child, parent, or brother or
14 sister, the retirement system shall be discharged and held harmless to the same
15 extent as if conducting business with a personal representative. The retirement
16 system shall not be required to inquire into the truth or veracity of any statement
17 made in the affidavit. In the event any person or entity establishes a superior right to
18 the account, the surviving spouse, child, parent, or brother or sister, and not the
19 retirement system or the Kentucky Public Pensions Authority[Kentucky
20 Retirement Systems], shall be answerable and accountable to any appointed
21 personal representative for the estate.

22 ➔Section 16. KRS 78.510 is amended to read as follows:

23 As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- 24 (1) "System" means the County Employees Retirement System;
- 25 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;
- 26 (3) "County" means any county, or nonprofit organization created and governed by a
27 county, counties, or elected county officers, sheriff and his or her employees, county

- 1 clerk and his or her employees, circuit clerk and his or her deputies, former circuit
2 clerks or former circuit clerk deputies, or political subdivision or instrumentality,
3 including school boards, cities, charter county governments, urban-county
4 governments, consolidated local governments, or unified local governments
5 participating in the system by order appropriate to its governmental structure, as
6 provided in KRS 78.530, and if the board is willing to accept the agency,
7 organization, or corporation, the board being hereby granted the authority to
8 determine the eligibility of the agency to participate;
- 9 (4) "School board" means any board of education participating in the system by order
10 appropriate to its governmental structure, as provided in KRS 78.530, and if the
11 board is willing to accept the agency or corporation, the board being hereby granted
12 the authority to determine the eligibility of the agency to participate;
- 13 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 14 (6) "Employee" means every regular full-time appointed or elective officer or employee
15 of a participating county and the coroner of a participating county, whether or not he
16 or she qualifies as a regular full-time officer. The term shall not include persons
17 engaged as independent contractors, seasonal, emergency, temporary, and part-time
18 workers. In case of any doubt, the board shall determine if a person is an employee
19 within the meaning of KRS 78.510 to 78.852;
- 20 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
21 officials of a county, or any authority of the county having the power to appoint or
22 elect an employee to office or employment in the county;
- 23 (8) "Member" means any employee who is included in the membership of the system or
24 any former employee whose membership has not ceased under KRS 78.535;
- 25 (9) "Service" means the total of current service and prior service as defined in this
26 section;
- 27 (10) "Current service" means the number of years and months of employment as an

1 employee, on and after July 1, 1958, for which creditable compensation is paid and
2 employee contributions deducted, except as otherwise provided;

3 (11) "Prior service" means the number of years and completed months, expressed as a
4 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
5 creditable compensation was paid. An employee shall be credited with one (1)
6 month of prior service only in those months he received compensation for at least
7 one hundred (100) hours of work. Twelve (12) months of current service in the
8 system shall be required to validate prior service;

9 (12) "Accumulated contributions" means the sum of all amounts deducted from the
10 compensation of a member and credited to his individual account in the members'
11 account, including employee contributions picked up after August 1, 1982, pursuant
12 to KRS 78.610(4), together with interest credited, on the amounts, and any other
13 amounts the member shall have contributed thereto, including interest credited
14 thereon. "Accumulated contributions" shall not include employee contributions that
15 are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
16 fund established in KRS 78.520, as prescribed by KRS 78.5536(3)(b);

17 (13) "Creditable compensation":

18 (a) Except as limited by paragraph (c) of this subsection, means all salary, wages,
19 and fees, including payments for compensatory time, paid to the employee as
20 a result of services performed for the employer or for time during which the
21 member is on paid leave, which are includable on the member's federal form
22 W-2 wage and tax statement under the heading "wages, tips, other
23 compensation", including employee contributions picked up after August 1,
24 1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers
25 who receive salary, fees, maintenance, or other perquisites as a result of their
26 official duties is the gross amount received decreased by the cost of salary
27 paid deputies and clerks and the cost of office supplies and other official

1 expenses;

2 (b) Includes:

- 3 1. Lump-sum bonuses, severance pay, or employer-provided payments for
4 purchase of service credit, which shall be averaged over the employee's
5 service with the system in which it is recorded if it is equal to or greater
6 than one thousand dollars (\$1,000);
- 7 2. Cases where compensation includes maintenance and other perquisites,
8 but the board shall fix the value of that part of the compensation not paid
9 in money;
- 10 3. Lump-sum payments for creditable compensation paid as a result of an
11 order of a court of competent jurisdiction, the Personnel Board, or the
12 Commission on Human Rights, or for any creditable compensation paid
13 in anticipation of settlement of an action before a court of competent
14 jurisdiction, the Personnel Board, or the Commission on Human Rights,
15 including notices of violations of state or federal wage and hour statutes
16 or violations of state or federal discrimination statutes, which shall be
17 credited to the fiscal year during which the wages were earned or should
18 have been paid by the employer. This subparagraph shall also include
19 lump-sum payments for reinstated wages pursuant to KRS 61.569,
20 which shall be credited to the period during which the wages were
21 earned or should have been paid by the employer;
- 22 4. Amounts which are not includable in the member's gross income by
23 virtue of the member having taken a voluntary salary reduction provided
24 for under applicable provisions of the Internal Revenue Code; and
- 25 5. Elective amounts for qualified transportation fringes paid or made
26 available on or after January 1, 2001, for calendar years on or after
27 January 1, 2001, that are not includable in the gross income of the

1 employee by reason of 26 U.S.C. sec. 132(f)(4); and

2 (c) Excludes:

- 3 1. Living allowances, expense reimbursements, lump-sum payments for
4 accrued vacation leave, sick leave except as provided in KRS 78.616(5),
5 and other items determined by the board;
- 6 2. For employees who begin participating on or after September 1, 2008,
7 lump-sum payments for compensatory time;
- 8 3. Training incentive payments for city officers paid as set out in KRS
9 64.5277 to 64.5279;
- 10 4. For employees who begin participating on or after August 1, 2016,
11 nominal fees paid for services as a volunteer; and
- 12 5. Any salary or wages paid to an employee for services as a Kentucky
13 State Police school resource officer as defined by KRS 158.441;

14 (14) "Final compensation" means:

- 15 (a) For a member who begins participating before September 1, 2008, who is
16 employed in a nonhazardous position, the creditable compensation of the
17 member during the five (5) fiscal years he or she was paid at the highest
18 average monthly rate divided by the number of months of service credit during
19 that five (5) year period multiplied by twelve (12). The five (5) years may be
20 fractional and need not be consecutive. If the number of months of service
21 credit during the five (5) year period is less than forty-eight (48), one (1) or
22 more additional fiscal years shall be used;
- 23 (b) For a member who is employed in a nonhazardous position, whose effective
24 retirement date is between August 1, 2001, and January 1, 2009, and whose
25 total service credit is at least twenty-seven (27) years and whose age and years
26 of service total at least seventy-five (75), final compensation means the
27 creditable compensation of the member during the three (3) fiscal years the

1 member was paid at the highest average monthly rate divided by the number
2 of months of service credit during that three (3) year period multiplied by
3 twelve (12). The three (3) years may be fractional and need not be
4 consecutive. If the number of months of service credit during the three (3)
5 year period is less than twenty-four (24), one (1) or more additional fiscal
6 years shall be used;

7 (c) For a member who begins participating before September 1, 2008, who is
8 employed in a hazardous position, as provided in KRS 61.592, the creditable
9 compensation of the member during the three (3) fiscal years he or she was
10 paid at the highest average monthly rate divided by the number of months of
11 service credit during that three (3) year period multiplied by twelve (12). The
12 three (3) years may be fractional and need not be consecutive. If the number of
13 months of service credit during the three (3) year period is less than twenty-
14 four (24), one (1) or more additional fiscal years, which may contain less than
15 twelve (12) months of service credit, shall be used;

16 (d) For a member who begins participating on or after September 1, 2008, but
17 prior to January 1, 2014, who is employed in a nonhazardous position, the
18 creditable compensation of the member during the five (5) complete fiscal
19 years immediately preceding retirement divided by five (5). Each fiscal year
20 used to determine final compensation must contain twelve (12) months of
21 service credit. If the member does not have five (5) complete fiscal years that
22 each contain twelve (12) months of service credit, then one (1) or more
23 additional fiscal years, which may contain less than twelve (12) months of
24 service credit, shall be added until the number of months in the final
25 compensation calculation is at least sixty (60) months; or

26 (e) For a member who begins participating on or after September 1, 2008, but
27 prior to January 1, 2014, who is employed in a hazardous position as provided

1 in KRS 61.592, the creditable compensation of the member during the three
2 (3) complete fiscal years he or she was paid at the highest average monthly
3 rate divided by three (3). Each fiscal year used to determine final
4 compensation must contain twelve (12) months of service credit. If the
5 member does not have three (3) complete fiscal years that each contain twelve
6 (12) months of service credit, then one (1) or more additional fiscal years,
7 which may contain less than twelve (12) months of service credit, shall be
8 added until the number of months in the final compensation calculation is at
9 least thirty-six (36) months;

10 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
11 calculated during the twelve (12) month period immediately preceding the
12 member's effective retirement date, and shall include employee contributions picked
13 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to
14 the system by the employer and the following equivalents shall be used to convert
15 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
16 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half
17 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
18 (12) months, one (1) year;

19 (16) "Retirement allowance" means the retirement payments to which a member is
20 entitled;

21 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
22 basis of the actuarial tables adopted by the board. In cases of disability retirement,
23 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
24 to the age of the member, unless the member has chosen the Social Security
25 adjustment option as provided for in KRS 61.635(8), in which case the member's
26 actual age shall be used. For members who begin participating in the system prior to
27 January 1, 2014, no disability retirement option shall be less than the same option

1 computed under early retirement;

2 (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852,
3 means:

4 (a) For a member with service in a nonhazardous position, the sixty-fifth birthday
5 of a member;

6 (b) For a member with service in a hazardous position who begins participating
7 before September 1, 2008, the first day of the month following a member's
8 fifty-fifth birthday; or

9 (c) For a member with service in a hazardous position who begins participating
10 on or after September 1, 2008, the first day of the month following a member's
11 sixtieth birthday;

12 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
13 following June 30, which shall also be the plan year. The "fiscal year" shall be the
14 limitation year used to determine contribution and benefits limits as set out in 26
15 U.S.C. sec. 415;

16 (20) "Agency reporting official" means the person designated by the participating
17 employer who shall be responsible for forwarding all employer and employee
18 contributions and a record of the contributions to the system and for performing
19 other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

20 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean
21 all positions that average one hundred (100) or more hours per month, determined
22 by using the number of hours actually worked in a calendar or fiscal year, or eighty
23 (80) or more hours per month in the case of noncertified employees of school
24 boards, determined by using the number of hours actually worked in a calendar or
25 school year, unless otherwise specified, except:

26 (a) Seasonal positions, which although temporary in duration, are positions which
27 coincide in duration with a particular season or seasons of the year and that

1 may recur regularly from year to year, in which case the period of time shall
2 not exceed nine (9) months, except for employees of school boards, in which
3 case the period of time shall not exceed six (6) months;

- 4 (b) Emergency positions ~~which~~~~[that]~~ are positions utilized by the employer
5 during:

6 1. An emergency as determined by the employer for a period~~[that do]~~ not
7 exceeding~~[exceed]~~ thirty (30) working days and are nonrenewable; or

8 2. A state of emergency declared by the President of the United States or
9 the Governor of the Commonwealth of Kentucky that are created or
10 filled specifically for addressing the employer's needs during and as a
11 result of the declared emergency;

- 12 (c) Temporary positions that are positions of employment with a participating
13 agency for a period of time not to exceed twelve (12) months and not
14 renewable;

- 15 (d) Probationary positions which are positions of employment with a participating
16 employer that do not exceed twelve (12) months and that are used uniformly
17 by the participating agency on new employees who would otherwise be
18 eligible for participation in the system. Probationary positions shall not be
19 renewable by the participating employer for the same employee, unless the
20 employee has not been employed with the participating employer for a period
21 of at least twelve (12) months; or

- 22 (e) Part-time positions that are positions that may be permanent in duration, but
23 that require less than a calendar or fiscal year average of one hundred (100)
24 hours of work per month, determined by using the number of months actually
25 worked within a calendar or fiscal year, in the performance of duty, except in
26 case of noncertified employees of school boards, the school term average shall
27 be eighty (80) hours of work per month, determined by using the number of

1 months actually worked in a calendar or school year, in the performance of
2 duty;

3 (22) "Alternate participation plan" means a method of participation in the system as
4 provided for by KRS 78.530(3);

5 (23) "Retired member" means any former member receiving a retirement allowance or
6 any former member who has on file at the retirement office the necessary
7 documents for retirement benefits and is no longer contributing to the system;

8 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
9 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
10 pay. The rate shall be certified by the employer;

11 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
12 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
13 in the event of the member's death. As used in KRS 78.5536, beneficiary shall not
14 mean an estate, trust, or trustee;

15 (26) "Recipient" means the retired member, the person or persons designated as
16 beneficiary by the member and drawing a retirement allowance as a result of the
17 member's death, or a dependent child drawing a retirement allowance. An alternate
18 payee of a qualified domestic relations order shall not be considered a recipient,
19 except for purposes of KRS 61.623;

20 (27) "Person" means a natural person;

21 (28) "School term or year" means the twelve (12) months from July 1 through the
22 following June 30;

23 (29) "Retirement office" means the Kentucky Public Pensions Authority office building
24 in Frankfort, unless otherwise designated by the Kentucky Public Pensions
25 Authority;

26 (30) "Vested" for purposes of determining eligibility for purchasing service credit under
27 KRS 61.552 means the employee has at least forty-eight (48) months of service if

1 age sixty-five (65) or older or at least sixty (60) months of service if under the age
2 of sixty-five (65). For purposes of this subsection, "service" means service in the
3 systems administered by the Kentucky Retirement Systems and County Employees
4 Retirement System;

5 (31) "Participating" means an employee is currently earning service credit in the system
6 as provided in KRS 78.615;

7 (32) "Month" means a calendar month;

8 (33) "Membership date" means the date upon which the member began participating in
9 the system as provided in KRS 78.615;

10 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
11 retired member, as defined by subsection (23) of this section;

12 (35) "Qualified domestic relations order" means any judgment, decree, or order,
13 including approval of a property settlement agreement, that:

14 (a) Is issued by a court or administrative agency; and

15 (b) Relates to the provision of child support, alimony payments, or marital
16 property rights to an alternate payee;

17 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
18 participant, who is designated to be paid retirement benefits in a qualified domestic
19 relations order;

20 (37) "Accumulated employer credit" means the employer pay credit deposited to the
21 member's account and interest credited on such amounts as provided by KRS
22 78.5512 and 78.5516;

23 (38) "Accumulated account balance" means:

24 (a) For members who began participating in the system prior to January 1, 2014,
25 the member's accumulated contributions; or

26 (b) For members who began participating in the system on or after January 1,
27 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and

1 78.5516, the combined sum of the member's accumulated contributions and
2 the member's accumulated employer credit;

3 (39) "Volunteer" means an individual who:

- 4 (a) Freely and without pressure or coercion performs hours of service for an
5 employer participating in one (1) of the systems administered by Kentucky
6 Retirement Systems or the County Employees Retirement System without
7 receipt of compensation for services rendered, except for reimbursement of
8 actual expenses, payment of a nominal fee to offset the costs of performing
9 the voluntary services, or both; and
- 10 (b) If a retired member, does not become an employee, leased employee, or
11 independent contractor of the employer for which he or she is performing
12 volunteer services for a period of at least twelve (12) months following the
13 retired member's most recent retirement date;

14 (40) "Nominal fee" means compensation earned for services as a volunteer that does not
15 exceed five hundred dollars (\$500) per month. Compensation earned for services as
16 a volunteer from more than one (1) participating employer during a month shall be
17 aggregated to determine whether the compensation exceeds the five hundred dollars
18 (\$500) per month maximum provided by this subsection;

19 (41) "Nonhazardous position" means a position that does not meet the requirements of
20 KRS 78.5520 or has not been approved by the board as a hazardous position;

21 (42) "Hazardous position" means a position that meets the requirements of KRS 78.5520
22 and has been approved by the board as hazardous;

23 (43) "Level-percentage-of-payroll amortization method" means a method of determining
24 the annual amortization payment on the unfunded actuarial accrued liability as
25 expressed as a percentage of payroll over a set period of years. Under this method,
26 the percentage of payroll shall be projected to remain constant for all years
27 remaining in the set period and the unfunded actuarially accrued liability shall be

1 projected to be fully amortized at the conclusion of the set period;

2 (44) "Increment" means twelve (12) months of service credit which are purchased. The
3 twelve (12) months need not be consecutive. The final increment may be less than
4 twelve (12) months;

5 (45) "Last day of paid employment" means the last date employer and employee
6 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
7 78.615 to the retirement office in order for the employee to receive current service
8 credit for the month. Last day of paid employment does not mean a date the
9 employee receives payment for accrued leave, whether by lump sum or otherwise, if
10 that date occurs twenty-four (24) or more months after previous contributions;

11 (46) "Objective medical evidence" means reports of examinations or treatments; medical
12 signs which are anatomical, physiological, or psychological abnormalities that can
13 be observed; psychiatric signs which are medically demonstrable phenomena
14 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
15 or contact with reality; or laboratory findings which are anatomical, physiological,
16 or psychological phenomena that can be shown by medically acceptable laboratory
17 diagnostic techniques, including but not limited to chemical tests,
18 electrocardiograms, electroencephalograms, X-rays, and psychological tests.
19 "Objective medical evidence" shall not mean the testimonial statements of the
20 person applying for disability retirement;

21 (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which
22 results in an employee's total incapacity to continue as an employee in a hazardous
23 position, but the employee is not necessarily deemed to be totally and permanently
24 disabled to engage in other occupations for remuneration or profit;

25 (48) "Act in line of duty" means, for employees in hazardous positions under KRS
26 78.5520; ~~for purposes of members serving in a hazardous position;~~

27 (a) A single ~~an~~ act occurring which was required in the performance of the

1 principal duties of the hazardous position as defined by the job description; or
2 (b) A single act of violence committed against the employee that is found to be
3 related to his or her job duties, whether or not it occurs at his or her job site;

4 (49) "Dependent child" means a child in the womb and a natural or legally adopted child
5 of the member who has neither attained age eighteen (18) nor married or who is an
6 unmarried full-time student who has not attained age twenty-two (22). Solely in the
7 case of a member who dies as a direct result of an act in line of duty as defined in
8 this section, ~~or who~~ dies as a result of a duty-related injury as defined in KRS
9 61.621, becomes totally and permanently disabled as a direct result of an act in
10 the line of duty as defined in this section, or becomes disabled as a result of a
11 duty-related injury as defined in KRS 61.621 and is eligible for the benefits
12 provided by KRS 61.621(5)(a), "dependent child" also means a naturally or legally
13 adopted disabled child of the member, regardless of the child's age, if the child has
14 been determined to be eligible for federal Social Security disability benefits or is
15 being claimed as a qualifying child for tax purposes due to the child's total and
16 permanent disability;

17 (50) "Normal retirement age" means the age at which the member meets the
18 requirements for his or her normal retirement date as provided by subsection (18) of
19 this section;

20 (51) "Disability retirement date" means the first day of the month following the last day
21 of paid employment;

22 (52) "Monthly average pay" means:

23 (a) In the case of a member who dies as a direct result of an act in line of duty as
24 defined in KRS 16.505 or who dies as a result of a duty-related injury as
25 defined in KRS 61.621, the higher of the member's monthly final rate of pay
26 or the average monthly creditable compensation earned by the deceased
27 member during his or her last twelve (12) months of employment; or

1 (b) In the case where a member becomes totally and permanently disabled as a
2 direct result of an act in line of duty as defined in KRS 16.505 or becomes
3 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
4 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
5 member's monthly final rate of pay or the average monthly creditable
6 compensation earned by the disabled member during his or her last twelve
7 (12) months of employment prior to the date the act in line of duty or duty-
8 related injury occurred;

9 (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
10 61.505; and

11 (54) "Executive director" means the executive director of the Kentucky Public Pensions
12 Authority.

13 ➔Section 17. KRS 78.5524 is amended to read as follows:

14 The disability retirement provisions contained in this section shall apply to a person
15 whose last date of paid employment was in a hazardous position.

16 (1) (a) For purposes of this section:

17 1. "Total and permanent disability" means a disability which results in the
18 member's incapacity to engage in any occupation for remuneration or
19 profit. Loss by severance of both hands at or above the wrists, or both
20 feet at or above the ankles, or one (1) hand above the wrist and one (1)
21 foot above the ankle, or the complete, irrevocable loss of the sight of
22 both eyes shall be considered as total and permanent; and

23 2. "Hazardous disability" means a disability which results in an employee's
24 total incapacity to continue as an employee in a hazardous position, but
25 the employee is not necessarily deemed to be totally and permanently
26 disabled to engage in other occupations for remuneration or profit.

27 (b) In determining whether the disability meets the requirement of this section,

1 any reasonable accommodation provided by the employer as provided in 42
2 U.S.C. sec. 12111(9) and 29 C.F.R. pt. 1630 shall be considered.

3 (c) If the board determines that the total and permanent disability of a member
4 receiving a retirement allowance under this section has ceased, then the board
5 shall determine if the member has a hazardous disability as defined by KRS
6 78.510.

7 (2) Any person may qualify to retire on disability, subject to the following:

8 (a) The person shall have sixty (60) months of service, twelve (12) of which shall
9 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The
10 service requirement shall be waived if the disability is a total and permanent
11 disability or a hazardous disability and is a direct result of an act in line of
12 duty;

13 (b) For a person whose membership date is prior to August 1, 2004, the person
14 shall not be eligible for an unreduced retirement allowance;

15 (c) The person's application shall be on file in the retirement office no later than
16 twenty-four (24) months after the person's last day of paid employment, as
17 defined in KRS 78.510, in a regular full-time position that has been approved
18 as a hazardous position in accordance with KRS 78.5520;

19 (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;
20 and

21 (e) A person's disability application based on the same claim of incapacity shall
22 be accepted and reconsidered for disability if accompanied by new objective
23 medical evidence. The application shall be on file in the retirement office no
24 later than twenty-four (24) months after the person's last day of paid
25 employment in a regular full-time hazardous position.

26 (3) Upon the examination of the objective medical evidence by licensed physicians
27 pursuant to KRS 61.665, it shall be determined that:

1 (a) The incapacity results from bodily injury, mental illness, or disease. For
2 purposes of this section, "injury" means any physical harm or damage to the
3 human organism other than disease or mental illness;

4 (b) The incapacity is deemed to be permanent; and

5 (c) The incapacity does not result directly or indirectly from:

6 1. Injury intentionally self-inflicted while sane or insane; or

7 2. Bodily injury, mental illness, disease, or condition which pre-existed
8 membership in the system or reemployment, whichever is most recent,
9 unless:

10 a. The disability results from bodily injury, mental illness, disease, or
11 a condition which has been substantially aggravated by an injury or
12 accident arising out of or in the course of employment; or

13 b. The person has at least sixteen (16) years' current or prior service
14 for employment with employers participating in the County
15 Employees Retirement System or the Kentucky Retirement
16 Systems.

17 For purposes of this subparagraph, "reemployment" shall not mean a
18 change of employment between employers participating in the County
19 Employees Retirement System or the Kentucky Retirement Systems
20 with no loss of service credit.

21 (4) (a) 1. An incapacity shall be deemed to be permanent for the purpose of
22 hazardous disability if it is expected to result in death or can be
23 expected to last for a continuous period of not less than twelve (12)
24 months from the person's last day of paid employment in a hazardous
25 position.

26 2. The determination of a permanent incapacity for the purpose of
27 hazardous disability shall be based on the medical evidence contained

1 in the member's file and the member's residual functional capacity and
2 physical exertion requirements.

3 **3. The determination of a total and permanent incapacity shall be based**
4 **on the medical evidence contained in the member's file and the**
5 **member's residual functional capacity.**

6 (b) The person's residual functional capacity shall be the person's capacity for
7 work activity on a regular and continuing basis. The person's physical ability
8 shall be assessed in light of the severity of the person's physical, mental, and
9 other impairments. The person's ability to walk, stand, carry, push, pull, reach,
10 handle, and other physical functions shall be considered with regard to
11 physical impairments. The person's ability to understand, remember, and carry
12 out instructions and respond appropriately to supervision, coworkers, and
13 work pressures in a work setting shall be considered with regard to mental
14 impairments. Other impairments, including skin impairments, epilepsy, visual
15 sensory impairments, postural and manipulative limitations, and
16 environmental restrictions, shall be considered in conjunction with the
17 person's physical and mental impairments to determine residual functional
18 capacity.

19 (c) The person's physical exertion requirements shall be determined based on the
20 following standards:

- 21 1. Sedentary work shall be work that involves lifting no more than ten (10)
22 pounds at a time and occasionally lifting or carrying articles such as
23 large files, ledgers, and small tools. Although a sedentary job primarily
24 involves sitting, occasional walking and standing may also be required
25 in the performance of duties.
- 26 2. Light work shall be work that involves lifting no more than twenty (20)
27 pounds at a time with frequent lifting or carrying of objects weighing up

1 to ten (10) pounds. A job shall be in this category if lifting is
2 infrequently required but walking and standing are frequently required,
3 or if the job primarily requires sitting with pushing and pulling of arm or
4 leg controls. If the person has the ability to perform substantially all of
5 these activities, the person shall be deemed capable of light work. A
6 person deemed capable of light work shall be deemed capable of
7 sedentary work unless the person has additional limitations such as the
8 loss of fine dexterity or inability to sit for long periods.

9 3. Medium work shall be work that involves lifting no more than fifty (50)
10 pounds at a time with frequent lifting or carrying of objects weighing up
11 to twenty-five (25) pounds. If the person is deemed capable of medium
12 work, the person shall be deemed capable of light and sedentary work.

13 4. Heavy work shall be work that involves lifting no more than one
14 hundred (100) pounds at a time with frequent lifting or carrying of
15 objects weighing up to fifty (50) pounds. If the person is deemed capable
16 of heavy work, the person shall also be deemed capable of medium,
17 light, and sedentary work.

18 5. Very heavy work shall be work that involves lifting objects weighing
19 more than one hundred (100) pounds at a time with frequent lifting or
20 carrying of objects weighing fifty (50) or more pounds. If the person is
21 deemed capable of very heavy work, the person shall be deemed capable
22 of heavy, medium, light, and sedentary work.

23 (5) Upon disability retirement, an employee may receive a disability retirement
24 allowance payable during his or her lifetime which shall be:

25 (a) For a member who began participating in the system prior to August 1, 2004,
26 an annual retirement allowance payable monthly and determined in the same
27 manner as for retirement at his or her normal retirement date with years of

1 service and final compensation being determined as of the date of his or her
2 disability, except that service shall be added beginning with his or her last date
3 of paid employment and continuing to his or her fifty-fifth birthday. The
4 maximum service credit added shall not exceed the total service the member
5 had on his or her last day of paid employment, and the maximum service
6 credit for calculating his or her retirement allowance, including his or her total
7 service and service added under this section, shall not exceed twenty (20)
8 years;

9 (b) For a member who begins participating on or after August 1, 2004, but prior
10 to January 1, 2014, the higher of twenty-five percent (25%) of the member's
11 monthly final rate of pay or the retirement allowance determined in the same
12 manner as for retirement at his or her normal retirement date with years of
13 service and final compensation being determined as of the date of his or her
14 disability; or

15 (c) For a member who begins participating on or after January 1, 2014, in the
16 hybrid cash balance plan as provided by KRS 78.5516, the disability
17 retirement allowance shall be the higher of twenty-five percent (25%) of the
18 member's monthly final rate of pay or the retirement allowance determined in
19 the same manner as for retirement at his or her normal retirement date under
20 KRS 78.5516.

21 (6) If the member receives a satisfactory determination of ~~total and permanent~~
22 ~~disability or~~ hazardous disability pursuant to KRS 61.665 and the disability is the
23 direct result of an act in line of duty as defined in KRS 78.510, the member's
24 retirement allowance shall be calculated as follows:

25 (a) For the disabled member, benefits as provided in subsection (5) of this section
26 except that the monthly retirement allowance payable shall not be less than
27 twenty-five percent (25%) of the member's monthly final rate of pay; and

1 (b) For each dependent child of the member on his or her disability retirement
2 date, who is alive at the time any particular payment is due, a monthly
3 payment equal to ten percent (10%) of the disabled member's monthly final
4 rate of pay; however, total maximum dependent children's benefit shall not
5 exceed forty percent (40%) of the member's monthly final rate of pay. The
6 payments shall be payable to each dependent child, or to a legally appointed
7 guardian or as directed by the system.

8 (7) If the member receives a satisfactory determination of total and permanent
9 disability pursuant to KRS 61.665 and the disability is the direct result of an act
10 in line of duty as defined in KRS 78.510, the member's retirement allowance shall
11 be calculated as follows:

12 (a) For the disabled member, the benefits as provided in subsection (5) of this
13 section, except that the monthly retirement allowance payable shall not be
14 less than seventy-five percent (75%) of the member's monthly average pay;
15 and

16 (b) For each dependent child of the member on his or her disability retirement
17 date, who is alive at the time any particular payment is due, a monthly
18 payment equal to ten percent (10%) of the disabled member's monthly
19 average pay, except that:

20 1. Member and dependent children payments under this subsection shall
21 not exceed one hundred percent (100%) of the member's monthly
22 average pay; and

23 2. Total maximum dependent children's benefits shall not exceed twenty-
24 five percent (25%) of the member's monthly average pay while the
25 member is living and forty percent (40%) of the member's monthly
26 average pay after the member's death. The payments shall be payable
27 to each dependent child, or to a legally appointed guardian or as

1 directed by the system, and shall be divided equally among all
2 dependent children.

3 (8) No benefit provided in this section shall be reduced as a result of any change in the
4 extent of disability of any retired member who is normal retirement age or older.

5 ~~(9)~~~~(8)~~ If a regular full-time member in a hazardous position has been approved for
6 benefits under a hazardous disability, the board shall, upon request of the member,
7 permit the member to receive the hazardous disability allowance while accruing
8 benefits in a nonhazardous position, subject to proper medical review of the
9 nonhazardous position's job description by the Authority's medical examiner.

10 ➔Section 18. KRS 78.5526 is amended to read as follows:

11 (1) Once each year following the retirement of a person on a disability retirement
12 allowance, except for persons who become totally and permanently disabled as a
13 direct result of an act in line of duty as defined in KRS 78.510 or become disabled
14 as a result of a duty-related injury as defined in KRS 61.621 in which case shall
15 be once every three (3) years following retirement, or less frequently as determined
16 by the Authority's medical examiner but not less than once every five (5) years, the
17 system may require the person, prior to his or her normal retirement date, to
18 undergo an employment and medical staff review and, if necessary, be required to
19 file at the retirement office on the review form prescribed by the Authority current
20 employment information and current medical information for the bodily injury,
21 mental illness, or disease for which he or she receives a disability retirement
22 allowance. The person shall have one hundred eighty (180) days from the day the
23 Authority ~~sent~~~~mailed~~ the review form by United States first-class mail to the
24 person's last address on file in the retirement office, by electronic mail to the
25 person's last electronic mail address on file in the retirement office, or by other
26 electronic means to file at the retirement office the review form and the current
27 employment and medical information. The person shall certify to the Authority that

1 the review form, including current employment and medical information, is ready to
2 be evaluated by the medical examiner in accordance with KRS 78.5528.

3 (2) If, after good faith efforts, the person informs the Authority that he or she has been
4 unable to obtain the employment or medical information, the Authority shall assist
5 the person in obtaining the records and may use the powers granted pursuant to
6 KRS 61.685(1) to obtain the records.

7 (3) If the person fails or refuses to file at the retirement office the review form,
8 including the current employment and medical information, his or her retirement
9 allowance shall be discontinued or reduced on the first day of the month following
10 the expiration of the one hundred eighty (180) days from the day the Authority
11 ~~sent~~~~mailed~~ the review form by United States first-class mail to the person's last
12 address on file in the retirement office, by electronic mail to the person's last
13 electronic mail address on file in the retirement office, or by other electronic
14 means. The Authority shall send notice of the discontinuance or reduction of the
15 disability retirement allowance by United States first-class mail to the person's last
16 address on file in the retirement office, by electronic mail to the person's last
17 electronic mail address on file in the retirement office, or by other electronic
18 means. If the person's benefits are discontinued or reduced under this section, his or
19 her rights to further disability retirement allowances shall cease, except as provided
20 by KRS 78.5528.

21 (4) The Kentucky Public Pensions Authority shall hire or contract for the services of
22 one (1) or more investigators to investigate potential fraud involving disability
23 benefits with the system. The investigators shall evaluate potential cases of
24 disability fraud and conduct spot audits for potential fraud as determined by the
25 system in cases involving members who become totally and permanently disabled
26 as a direct result of an act in line of duty as defined in KRS 78.510 or become
27 disabled as a result of a duty-related injury as defined in KRS 61.621.

1 ➔Section 19. KRS 78.5530 is amended to read as follows:

2 Notwithstanding any other provisions of KRS 78.510 to 78.852, a maximum disability
3 benefit is hereby established which shall apply, upon disability retirement, to any disabled
4 employee's account to which service credit is added to determine disability benefits or in
5 any case where disability benefits are determined by computing a percentage of the
6 disabled employee's final monthly rate of pay or monthly average pay. The maximum
7 disability benefit shall be determined by the following formula:

8 (1) Add the monthly benefit payable to the disabled employee from the County
9 Employees Retirement System and the Kentucky Retirement Systems, using the
10 monthly disability retirement allowance without any reduction due to the selection
11 of an optional payment plan under KRS 61.635 but excluding dependent children's
12 allowances, if any, to his or her monthly benefit, if any, from Social Security, even
13 though these payments may not begin for a period of time as required for
14 qualification under the federal Social Security law, excluding spouse or dependent
15 benefits, and his or her monthly benefit, if any, from workers' compensation, even
16 though these payments may not have begun as of the date the disabled member
17 applies for disability retirement benefits, excluding spouse or dependent children's
18 allowances, from workers' compensation, to arrive at a projected combined monthly
19 benefit.

20 (2) If the projected combined monthly benefit exceeds one hundred percent (100%) of
21 the disabled employee's final rate of pay or his or her final compensation, whichever
22 is greater, his or her disability retirement allowance from the County Employees
23 Retirement System and the Kentucky Retirement Systems shall be reduced to an
24 amount which would cause his or her projected combined monthly benefit to equal
25 one hundred percent (100%) of his or her final rate of pay or his or her final
26 compensation, whichever is greater; however, the disability retirement allowance
27 shall not be reduced below an amount which would result from a computation of his

1 or her disability retirement allowance from the County Employees Retirement
2 System and the Kentucky Retirement Systems using the disabled employee's actual
3 total service.

4 (3) The system may pay estimated benefits to a disabled employee, upon qualification
5 for disability retirement, based on an estimate of his or her Social Security and
6 workers' compensation benefits until the amounts are actually determined, at which
7 time a final calculation of the member's actual benefits shall be determined and his
8 or her account corrected retroactive to his or her effective retirement date.

9 (4) Any increase in Social Security benefits or workers' compensation benefits which
10 becomes law, regardless of their effective date, subsequent to the disabled
11 employee's effective retirement date, shall not be considered in determination of the
12 maximum benefit payable, as the maximum benefit payable is based on the amount
13 of combined benefits under these programs as of the disabled employee's effective
14 retirement date.

15 (5) Any disabled recipient whose potential payments from the system were reduced as
16 provided for in this section shall advise the Authority if his or her payments under
17 the federal Social Security Act or Workers' Compensation Act cease at any time
18 subsequent to his or her effective retirement date. Upon investigation, if the system
19 determines that the disabled recipient continues to be eligible for disability benefits,
20 the system may increase his or her retirement allowance by adding to his or her
21 payment an amount equal to the reduction applied upon the effective retirement date
22 in accordance with subsection (2) of this section.

23 (6) The amount of combined disability benefit payments made to an individual on or
24 after April 1 2021, from the Kentucky Retirement Systems and the County
25 Employees Retirement System shall not be increased as a result of the passage of
26 2021 Ky. Acts ch. 102.

27 (7) Subsequent to his or her effective retirement date, each disability recipient who is

1 still eligible to receive disability payments based upon a total and permanent
2 disability that occurred as a direct result of an act in line of duty as defined in
3 KRS 78.510 or a disablement that occurred as a result of a duty-related injury as
4 defined in KRS 61.621 shall annually file, on a form or via an electronic method
5 established by the Authority, information on whether payments to the recipient
6 have ceased or begun under the federal Social Security Act or Workers'
7 Compensation Act and the Authority shall make any necessary adjustments as
8 provided by this section.

9 ➔Section 20. KRS 78.5536 is amended to read as follows:

10 (1) For purposes of this section:

11 (a) "Hospital and medical insurance plan" may include, at the board's discretion,
12 any one (1) or more of the following:

- 13 1. Any hospital and medical expense policy or certificate, provider-
14 sponsored integrated health delivery network, self-insured medical plan,
15 health maintenance organization contract, or other health benefit plan;
- 16 2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health
17 reimbursement arrangement or a similar account as may be permitted by
18 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's
19 discretion, may reimburse any medical expense permissible under 26
20 U.S.C. sec. 213; or
- 21 3. A medical insurance reimbursement program established by the board
22 through the promulgation of administrative regulation under which
23 members purchase individual health insurance coverage through a health
24 insurance exchange established under 42 U.S.C. sec. 18031 or 18041;

25 (b) "Monthly contribution rate" shall be the amount determined by the board
26 based upon the requirements of subsection (4)(a) to (c) of this section, except
27 that for members who began participating in the system on or after July 1,

1 2003, the term shall mean the amount determined in subsection (4)(d) of this
2 section; and

3 (c) "Months of service" shall mean the total months of combined service used to
4 determine benefits under the system, except service added to determine
5 disability benefits or service otherwise prohibited from being used to
6 determine retiree health benefits under KRS 78.510 to 78.852 shall not be
7 counted as "months of service."

8 (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract
9 or on a self-insured basis to provide a group hospital and medical
10 insurance plan coverage for:

11 a. Present and future recipients of a retirement allowance from the
12 County Employees Retirement System; and

13 b. The spouse and each qualified dependent of a recipient who is a
14 former member or the beneficiary, provided the spouse and
15 dependent meet the requirements to participate in the hospital and
16 medical insurance plans established, contracted, or authorized by
17 the system.

18 2. Any recipient who chooses coverage under a hospital and medical
19 insurance plan shall pay, by payroll deduction from the retirement
20 allowance, electronic funds transfer, or by another method, the
21 difference between the premium cost of the hospital and medical
22 insurance plan coverage selected and the monthly contribution rate to
23 which he or she would be entitled under this section.

24 (b) 1. For present and future recipients of a retirement allowance from the
25 system who are not eligible for Medicare and for those recipients
26 described in subparagraph 3.b. of this paragraph, the board may
27 authorize these participants to be included in the Kentucky Employees

1 Health Plan as provided by KRS 18A.225 to 18A.2287 and shall provide
2 benefits for recipients in the plan equal to those provided to state
3 employees having the same Medicare hospital and medical insurance
4 eligibility status. Notwithstanding the provisions of any other statute
5 except subparagraph 3.b. of this paragraph, system recipients shall be
6 included in the same class as current state employees for purposes of
7 determining medical insurance policies and premiums in the Kentucky
8 Employees Health Plan as provided by KRS 18A.225 to 18A.2287.

9 2. Regardless of age, if a recipient or the spouse or dependent child of a
10 recipient who elects coverage becomes eligible for Medicare, he or she
11 shall participate in the plans offered by the systems for Medicare eligible
12 recipients. Individuals participating in the Medicare eligible plans may
13 be required to obtain and pay for Medicare Part A and Part B coverage
14 in order to participate in the Medicare eligible plans offered by the
15 system.

16 3. The system shall continue to provide the same hospital and medical
17 insurance plan coverage for recipients and qualifying dependents after
18 the age of sixty-five (65) as before the age of sixty-five (65), if:

19 a. The recipient is not eligible for Medicare coverage; or

20 b. The recipient would otherwise be eligible for Medicare coverage
21 but is subject to the Medicare Secondary Payer Act under 42
22 U.S.C. sec. 1395y(b) and has been reemployed by a participating
23 agency which offers the recipient a hospital and medical
24 insurance benefit or by a participating agency which is prevented
25 from offering a hospital and medical benefit to the recipient as a
26 condition of reemployment under KRS 70.293, 95.022, or
27 164.952. Individuals who are eligible, pursuant to this

subdivision, to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 may be rated as a separate class from other eligible employees and retirees for the purpose of determining medical insurance premiums.

(c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (6) of this section.

(d) Notwithstanding anything in KRS Chapter 78 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq.

(3) (a) Each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852 shall contribute to the insurance trust fund established by KRS 61.701 the amount necessary to provide the monthly contribution rate as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate determined under KRS 78.635.

(b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member whose membership date begins on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall, at the discretion of the board, be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. Notwithstanding the provisions of this paragraph, a

- 1 transfer of assets between the accounts established pursuant to 26 U.S.C.
2 sec. 401(h), within the funds established in KRS 78.520, and the
3 insurance trust fund established under KRS 61.701 shall not be allowed.
- 4 2. The employer shall file the contributions as provided by subparagraph 1.
5 of this paragraph at the retirement office in accordance with KRS
6 78.625. Any interest or penalties paid on any delinquent contributions
7 shall be credited to accounts established pursuant to 26 U.S.C. sec.
8 401(h), within the funds established in KRS 78.520, or the insurance
9 trust fund established under KRS 61.701. Notwithstanding any
10 minimum compensation requirements provided by law, the deductions
11 provided by this paragraph shall be made, and the compensation of the
12 member shall be reduced accordingly.
- 13 3. Each employer shall submit payroll reports, contributions lists, and other
14 data as may be required by administrative regulation promulgated by the
15 board of trustees pursuant to KRS Chapter 13A.
- 16 4. Every member shall be deemed to consent and agree to the deductions
17 made pursuant to this paragraph, and the payment of salary or
18 compensation less the deductions shall be a full and complete discharge
19 of all claims for services rendered by the person during the period
20 covered by the payment, except as to any benefits provided by KRS
21 78.510 to 78.852. No member may elect whether to participate in, or
22 choose the contribution amount to accounts established pursuant to 26
23 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the
24 insurance trust fund established under KRS 61.701. The member shall
25 have no option to receive the contribution required by this paragraph
26 directly instead of having the contribution paid to accounts established
27 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS

1 78.520, or the insurance trust fund established under KRS 61.701. No
2 member may receive a rebate or refund of contributions. If a member
3 establishes a membership date prior to September 1, 2008, pursuant to
4 KRS 61.552(2) or (3), then this paragraph shall not apply to the member
5 and all contributions previously deducted in accordance with this
6 paragraph shall be refunded to the member without interest. The
7 contribution made pursuant to this paragraph shall not act as a reduction
8 or offset to any other contribution required of a member or recipient
9 under KRS 78.510 to 78.852.

- 10 5. The board of trustees, at its discretion, may direct that the contributions
11 required by this paragraph be accounted for within accounts established
12 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
13 78.520, or the insurance trust fund established under KRS 61.701,
14 through the use of separate accounts.

- 15 (4) (a) The premium required to provide hospital and medical insurance plan
16 coverage under this section shall be paid wholly or partly from funds
17 contributed by:

- 18 1. The recipient of a retirement allowance, by payroll deduction from his or
19 her retirement allowance, electronic funds transfer, or by other method;
20 2. The insurance trust fund established by KRS 61.701 or accounts
21 established pursuant to 26 U.S.C. sec. 401(h) within the funds
22 established in KRS 78.520;
23 3. Another state-administered retirement system, including the systems
24 administered by Kentucky Retirement Systems, under a reciprocal
25 arrangement, except that any portion of the premium paid from the funds
26 specified by subparagraph 2. of this paragraph under a reciprocal
27 agreement shall not exceed the amount that would be payable under this

1 section if all the member's service were in the County Employees
2 Retirement System. If the board provides for cross-referencing of
3 insurance premiums, the employer's contribution for the working
4 member or spouse shall be applied toward the premium, and the
5 insurance trust fund established under KRS 61.701 or accounts
6 established pursuant to 26 U.S.C. sec. 401(h) within the funds
7 established in KRS 78.520, shall pay the balance; or

- 8 4. A combination of the fund sources described by subparagraph 1. to 3. of
9 this paragraph.

10 Group rates under the hospital and medical insurance plan shall be made
11 available to the spouse, each dependent child, and each disabled child,
12 regardless of the disabled child's age, of a recipient who is a former member
13 or the beneficiary, if the premium for the hospital and medical insurance for
14 the spouse, each dependent child, and each disabled child, or beneficiary is
15 paid by payroll deduction from the retirement allowance, electronic funds
16 transfer, or by another method. For purposes of this subsection only, a child
17 shall be considered disabled if he or she has been determined to be eligible for
18 federal Social Security disability benefits or meets the dependent disability
19 standard established by the Department of Employee Insurance in the
20 Personnel Cabinet.

- 21 (b) For a member who began participating in the system prior to July 1, 2003, the
22 monthly contribution rate shall be paid by the system from the funds specified
23 under paragraph (a)2. of this subsection and shall be equal to a percentage of
24 the single premium to cover the retired member as follows:

- 25 1. One hundred percent (100%) of the monthly premium for single
26 coverage shall be paid for a retired member who had two hundred forty
27 (240) months of service or more upon retirement or for a retired member

1 who when he or she was an employee was disabled as a direct result of
2 an act in line of duty as defined in KRS 78.510(48) or as a result of a
3 duty-related injury as defined in KRS 61.621;

- 4 2. Seventy-five percent (75%) of the monthly premium for single coverage
5 shall be paid for a retired member who had less than two hundred forty
6 (240) months of service but at least one hundred eighty (180) months of
7 service upon retirement, provided such retired member agrees to pay the
8 remaining twenty-five percent (25%) by payroll deduction from his or
9 her retirement allowance, electronic funds transfer, or by another
10 method;
- 11 3. Fifty percent (50%) of the monthly premium for single coverage shall be
12 paid for a retired member who had less than one hundred eighty (180)
13 months of service but had at least one hundred twenty (120) months of
14 service upon retirement, provided such retired member agrees to pay the
15 remaining fifty percent (50%) by payroll deduction from his or her
16 retirement allowance, electronic funds transfer, or by another method; or
- 17 4. Twenty-five percent (25%) of the monthly premium for single coverage
18 shall be paid for a retired member who had less than one hundred twenty
19 (120) months of service but had at least forty-eight (48) months of
20 service upon retirement, provided such retired member agrees to pay the
21 remaining seventy-five percent (75%) by payroll deduction from his or
22 her retirement allowance, electronic funds transfer, or by another
23 method.

24 Notwithstanding the foregoing provisions of this paragraph, an employee
25 participating in the system prior to July 1, 2003, who is killed as a direct result
26 of an act in line of duty as defined in KRS 78.510(48) or as a result of a duty-
27 related injury as defined in KRS 61.621, shall have the monthly premium paid

1 for the beneficiary, if the beneficiary is the member's spouse, and for each
2 dependent child, so long as they individually remain eligible for a monthly
3 retirement benefit.

- 4 (c) 1. For a member who began participating in the system prior to July 1,
5 2003, who was determined to be in a hazardous position in the County
6 Employees Retirement System, the funds specified under paragraph (a)2.
7 of this subsection shall also pay a percentage of the monthly contribution
8 rate sufficient to fund the premium costs for hospital and medical
9 insurance coverage for the spouse and for each dependent child of a
10 recipient.
- 11 2. The percentage of the monthly contribution rate paid for the spouse and
12 each dependent child of a recipient who was in a hazardous position in
13 accordance with subparagraph 1. of this paragraph shall be based solely
14 on the member's service in a hazardous position using the formula in
15 paragraph (b) of this subsection, except that for any recipient of a
16 retirement allowance from the County Employees Retirement System
17 who was contributing to the system on January 1, 1998, for service in a
18 hazardous position, the percentage of the monthly contribution shall be
19 based on the total of hazardous service and any nonhazardous service as
20 a police or firefighter with the same agency, if that agency was
21 participating in the County Employees Retirement System but did not
22 offer hazardous duty coverage for its police and firefighters at the time
23 of initial participation.

- 24 (d) For members who begin participating in the system on or after July 1, 2003:

- 25 1. Participation in the insurance benefits provided under this section shall
26 not be allowed until the member has earned at least one hundred twenty
27 (120) months of service in the state-administered retirement systems,

- 1 except that for members who begin participating in the system on or
2 after September 1, 2008, participation in the insurance benefits provided
3 under this section shall not be allowed until the member has earned at
4 least one hundred eighty (180) months of service credited under KRS
5 78.615(1) or another state-administered retirement system.
- 6 2. A member who meets the minimum service requirements as provided by
7 subparagraph 1. of this paragraph shall upon retirement be eligible for
8 the following monthly contribution rate to be paid on his or her behalf
9 from the funds specified under paragraph (a)2. of this subsection:
- 10 a. For members with service in a nonhazardous position, a monthly
11 insurance contribution of ten dollars (\$10) for each year of service
12 as a participating employee in a nonhazardous position; and
- 13 b. For members with service in a hazardous position, a monthly
14 insurance contribution of fifteen dollars (\$15) for each year of
15 service as a participating employee in a hazardous position. Upon
16 the death of the retired member, the beneficiary, if the beneficiary
17 is the member's spouse, shall be entitled to a monthly insurance
18 contribution of ten dollars (\$10) for each year of service the
19 member attained as a participating employee in a hazardous
20 position.
- 21 3. The minimum service requirement to participate in benefits as provided
22 by subparagraph 1. of this paragraph shall be waived for a member who
23 is disabled as a result of an act in line of duty as defined in KRS
24 78.510(48) or as a result of a duty-related injury as defined by KRS
25 61.621 and the member shall be entitled to the benefits payable under
26 this subsection as though the member had twenty (20) years of service in
27 the position for which the disabling condition occurred.

- 1 4. Notwithstanding the provisions of this paragraph, the minimum service
2 requirement to participate in benefits as provided by subparagraph 1. of
3 this paragraph shall be waived for a for a member who dies a as a result
4 of an act in line of duty as defined in KRS 78.510(48) or as a result of a
5 duty-related injury as defined in KRS 61.621, and the premium for the
6 member's spouse and for each dependent child as defined in KRS 78.510
7 shall be paid in full by the systems so long as they individually remain
8 eligible for a monthly retirement benefit.
- 9 5. Except as provided by subparagraph 4. of this paragraph, the monthly
10 insurance contribution amount shall be increased July 1 of each year by
11 one and one-half percent (1.5%). The increase shall be cumulative and
12 shall continue to accrue after the member's retirement for as long as a
13 monthly insurance contribution is payable to the retired member or
14 beneficiary.
- 15 6. The benefits of this paragraph provided to a member whose participation
16 begins on or after July 1, 2003, shall not be considered as benefits
17 protected by the inviolable contract provisions of KRS 78.852. The
18 General Assembly reserves the right to suspend or reduce the benefits
19 conferred in this paragraph if in its judgment the welfare of the
20 Commonwealth so demands.
- 21 7. An employee whose membership date is on or after September 1, 2008,
22 who retires and is reemployed in a regular full-time position required to
23 participate in the system or the Kentucky Retirement Systems shall not
24 be eligible for health insurance coverage or benefits provided by this
25 section and shall take coverage with his or her employing agency during
26 the period of reemployment in a regular full-time position.
- 27 (e) For members with service in another state-administered retirement system

1 who select hospital and medical insurance plan coverage through the system:

- 2 1. The system shall compute the member's combined service, including
3 service credit in another state-administered retirement system, and
4 calculate the portion of the member's premium monthly contribution rate
5 to be paid by the funds specified under paragraph (a)2. of this subsection
6 according to the criteria established in paragraphs (a) to (d) of this
7 subsection. Each state-administered retirement system shall pay annually
8 to the insurance trust fund established under KRS 61.701 the portion of
9 the system's cost of the retiree's monthly contribution for single coverage
10 for hospital and medical insurance plan which shall be equal to the
11 percentage of the member's number of months of service in the other
12 state-administered retirement plan divided by his or her total combined
13 service and in conjunction with the reciprocal agreement established
14 between the system and the other state-administered retirement systems.
15 The amounts paid by the other state-administered retirement plans and
16 by the County Employees Retirement System from funds specified under
17 paragraph (a)2. of this subsection shall not be more than one hundred
18 percent (100%) of the monthly contribution adopted by the respective
19 boards of trustees;
- 20 2. A member may not elect coverage for hospital and medical benefits
21 through more than one (1) of the state-administered retirement systems;
22 and
- 23 3. A state-administered retirement system shall not pay any portion of a
24 member's monthly contribution for medical insurance unless the member
25 is a recipient or annuitant of the plan.
- 26 (5) Premiums paid for hospital and medical insurance coverage procured under
27 authority of this section shall be exempt from any premium tax which might

1 otherwise be required under KRS Chapter 136. The payment of premiums by the
2 funds described by subsection (4)(a)2. of this section shall not constitute taxable
3 income to an insured recipient. No commission shall be paid for hospital and
4 medical insurance procured under authority of this section.

5 (6) The board shall promulgate an administrative regulation to establish a medical
6 insurance reimbursement plan to provide reimbursement for hospital and medical
7 insurance plan premiums of recipients of a retirement allowance who are not
8 eligible for the same level of hospital and medical benefits as recipients living in
9 Kentucky and having the same Medicare hospital and medical insurance eligibility
10 status. An eligible recipient shall file proof of payment for hospital and medical
11 insurance plan coverage with the retirement office. Reimbursement to eligible
12 recipients shall be made on a quarterly basis. The recipient shall be eligible for
13 reimbursement of substantiated medical insurance premiums for an amount not to
14 exceed the total monthly contribution rate determined under subsection (4) of this
15 section. The plan shall not be made available if all recipients are eligible for the
16 same coverage as recipients living in Kentucky.

17 ➔Section 21. KRS 78.5540 is amended to read as follows:

18 (1) A retired member whose disability retirement was discontinued pursuant to KRS
19 78.5528 and who is reemployed by an employer participating in the system or the
20 Kentucky Retirement Systems prior to his or her normal retirement date shall have
21 his or her accounts combined upon termination for determining eligibility for
22 benefits. If the member is eligible for retirement, the member's service and
23 creditable compensation earned as a result of his or her reemployment shall be used
24 in the calculation of benefits, except that the member's final compensation shall not
25 be less than the final compensation last used in determining his or her retirement
26 allowance. The member shall not change beneficiary or payment option
27 designations.

- 1 (2) (a) If a retired member accepts employment or begins serving as a volunteer with
2 an employer participating in the systems administered by Kentucky
3 Retirement Systems or the County Employees Retirement System within
4 twelve (12) months of his or her retirement date, the retired member shall
5 notify the Authority and the participating employer shall submit the
6 information required or requested by the Authority to confirm the individual's
7 employment or volunteer status. The retired member shall not be required to
8 notify the Authority regarding any employment or volunteer service with a
9 participating agency that is accepted after twelve (12) months following his or
10 her retirement date.
- 11 (b) If the retired member is under a contract to provide services as an independent
12 contractor or leased employee to an employer participating in the systems
13 administered by Kentucky Retirement Systems or the County Employees
14 Retirement System within twelve (12) months of his or her retirement date,
15 the member shall submit a copy of that contract to the Authority, and the
16 Authority shall determine if the member is an independent contractor or leased
17 employee for purposes of retirement benefits. The retired member and the
18 participating employer shall submit the information required or requested by
19 the Authority to confirm the individual's status as an independent contractor or
20 leased employee. The retired member shall not be required to notify the
21 Authority regarding any services entered into as an independent contractor or
22 leased employee with a participating agency that the employee enters into
23 after twelve (12) months following his or her retirement date.
- 24 (3) Retired members of the County Employees Retirement System who returned to
25 work with an employer that participates in the County Employees Retirement
26 System or Kentucky Retirement Systems prior to September 1, 2008, shall be
27 governed by the provisions of KRS 61.637(1) to (16).

1 (4) The following shall apply to retired members of the County Employees Retirement
2 System who are reemployed on or after September 1, 2008, by an agency
3 participating in the systems administered by the County Employees Retirement
4 System or the Kentucky Retirement Systems:

5 (a) Except as provided by paragraphs (c) and (d) of this subsection, if a retired
6 member is receiving a retirement allowance from the County Employees
7 Retirement System, or has filed the forms required to receive a retirement
8 allowance from the County Employees Retirement System, and is employed in
9 a regular full-time position required to participate in the County Employees
10 Retirement System or the Kentucky Retirement Systems or is employed in a
11 position that is not considered regular full-time with an employer participating
12 in the County Employees Retirement System or the Kentucky Retirement
13 Systems within three (3) months following the member's initial retirement
14 date, the member's retirement shall be voided, and the member shall repay to
15 the system all benefits received, including any health insurance benefits. If the
16 retired member is returning to work in a regular full-time position required to
17 participate in the County Employees Retirement System:

- 18 1. The member shall contribute to a member account established for him or
19 her in the County Employees Retirement System or the Kentucky
20 Retirement Systems, and employer contributions shall be paid on behalf
21 of the member by the participating employer to the system; and
- 22 2. Upon subsequent retirement, the member shall be eligible for a
23 retirement allowance based upon total service and creditable
24 compensation, including any additional service or creditable
25 compensation earned after his or her initial retirement was voided;

26 (b) Except as provided by paragraphs (c) and (d) of this subsection, if a retired
27 member is receiving a retirement allowance from the County Employees

1 Retirement System and is employed in a regular full-time position required to
2 participate in the County Employees Retirement System or the Kentucky
3 Retirement Systems after a three (3) month period following the member's
4 initial retirement date, the member may continue to receive his or her
5 retirement allowance during the period of reemployment subject to the
6 following provisions:

7 1. If a member is reemployed by a participating employer within twelve
8 (12) months of the member's retirement date, the participating employer
9 shall certify in writing on a form prescribed by the Authority that no
10 prearranged agreement existed between the employee and employer
11 prior to the employee's retirement for the employee to return to work
12 with the participating employer. If the participating employer fails to
13 complete the certification or the Authority determines a prearranged
14 agreement exists, the member's retirement shall be voided and the
15 provisions of paragraph (a) of this subsection shall apply to the member
16 and the employer. For purposes of this paragraph:

17 a. If an elected official is reelected to a new term of office in the
18 same position as the elected official held prior to retirement and
19 takes office~~[and has retired from the elected office]~~ within twelve
20 (12) months of his or her retirement date~~[prior to taking the new~~
21 ~~term of office]~~, he or she shall be deemed by the Authority as
22 having a prearranged agreement; and

23 b. Employment that is accepted by the retired member after twelve
24 (12) months following the member's retirement date shall not
25 constitute a prearranged agreement under this paragraph;

26 2. Notwithstanding any other provision of KRS Chapter 78 to the contrary,
27 the member shall not contribute to the system and shall not earn any

1 additional benefits for any work performed during the period of
2 reemployment;

3 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
4 except for any retiree employed as a school resource officer as defined
5 by KRS 158.441, the employer shall pay employer contributions as
6 specified by KRS 78.5536 and 78.635 on all creditable compensation
7 earned by the employee during the period of reemployment. The
8 additional contributions paid shall be used to reduce the unfunded
9 actuarial liability of the system; and

10 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
11 except for any retiree employed as a school resource officer as defined
12 by KRS 158.441, the employer shall be required to reimburse the system
13 for the cost of the health insurance premium paid by the system to
14 provide coverage for the retiree, not to exceed the cost of the single
15 premium. Effective July 1, 2015, local school boards shall not be
16 required to pay the reimbursement required by this subparagraph for
17 retirees employed by the board for eighty (80) days or less during the
18 fiscal year;

19 (c) If a member is receiving a retirement allowance from hazardous position
20 coverage with the County Employees Retirement System, or has filed the
21 forms required to receive a retirement allowance from the County Employees
22 Retirement System for service in a hazardous position, and is employed in a
23 regular full-time hazardous position required to participate in the County
24 Employees Retirement System or the Kentucky Retirement Systems within
25 one (1) month following the member's initial retirement date, the member's
26 retirement shall be voided, and the member shall repay to the system all
27 benefits received, including any health insurance benefits. If the member is

1 returning to work in a regular full-time position required to participate in the
2 County Employees Retirement System or the Kentucky Retirement Systems:

- 3 1. The member shall contribute to a member account established for him or
4 her in the County Employees Retirement System or the Kentucky
5 Retirement Systems, and employer contributions shall be paid on behalf
6 of the member by the participating employer; and
- 7 2. Upon subsequent retirement, the member shall be eligible for a
8 retirement allowance based upon total service and creditable
9 compensation, including any additional service or creditable
10 compensation earned after his or her initial retirement was voided;

11 (d) If a member is receiving a retirement allowance from the hazardous position
12 coverage with the County Employees Retirement System and is employed in a
13 regular full-time hazardous position required to participate in the County
14 Employees Retirement System or the Kentucky Retirement Systems after a
15 one (1) month period following the member's initial retirement date, the
16 member may continue to receive his or her retirement allowance during the
17 period of reemployment subject to the following provisions:

- 18 1. If a member is reemployed by a participating employer within twelve
19 (12) months of the member's retirement date, the participating employer
20 shall certify in writing on a form prescribed by the Authority that no
21 prearranged agreement existed between the employee and employer
22 prior to the employee's retirement for the employee to return to work
23 with the participating employer. If the participating employer fails to
24 complete the certification or the Authority determines a prearranged
25 agreement exists, the member's retirement shall be voided and the
26 provisions of paragraph (c) of this subsection shall apply to the member
27 and the employer. For purposes of this paragraph:

- 1 a. If an elected official is reelected to a new term of office in the
2 same position as the elected official held prior to retirement and
3 takes office~~[and has retired from the elected office]~~ within twelve
4 (12) months of his or her retirement date~~[prior to taking the new~~
5 ~~term of office]~~, he or she shall be deemed by the
6 Authority~~[system]~~ as having a prearranged agreement; and
- 7 b. Employment that is accepted by the retired member after twelve
8 (12) months following the member's retirement date shall not
9 constitute a prearranged agreement under this paragraph;
- 10 2. Notwithstanding any other provision of KRS Chapter 78 to the contrary,
11 the member shall not contribute to the system or the Kentucky
12 Retirement Systems and shall not earn any additional benefits for any
13 work performed during the period of reemployment;
- 14 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
15 except for any retiree employed as a school resource officer as defined
16 by KRS 158.441, the employer shall pay employer contributions as
17 specified by KRS 78.5536 and 78.635 on all creditable compensation
18 earned by the employee during the period of reemployment. The
19 additional contributions paid shall be used to reduce the unfunded
20 actuarial liability of the system; and
- 21 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
22 except for any retiree employed as a school resource officer as defined
23 by KRS 158.441, the employer shall be required to reimburse the system
24 for the cost of the health insurance premium paid by the system to
25 provide coverage for the retiree, not to exceed the cost of the single
26 premium;
- 27 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member

1 who qualifies as a volunteer for an employer participating in the County
2 Employees Retirement System or the Kentucky Retirement Systems and who
3 is receiving reimbursement of actual expenses, a nominal fee for his or her
4 volunteer services, or both, shall not be considered an employee of the
5 participating employer and shall not be subject to paragraphs (a) to (d) of this
6 subsection if:

- 7 1. Prior to the retired member's most recent retirement date, he or she did
8 not receive creditable compensation from the participating employer in
9 which the retired member is performing volunteer services;
- 10 2. Any reimbursement or nominal fee received prior to the retired
11 member's most recent retirement date has not been credited as creditable
12 compensation to the member's account or utilized in the calculation of
13 the retired member's benefits;
- 14 3. The retired member has not purchased or received service credit under
15 any of the provisions of KRS 78.510 to 78.852 for service with the
16 participating employer for which the retired member is performing
17 volunteer services; and
- 18 4. Other than the status of volunteer, the retired member does not become
19 an employee, leased employee, or independent contractor of the
20 employer for which he or she is performing volunteer services for a
21 period of at least twelve (12) months following the retired member's
22 most recent retirement date.

23 If a retired member, who provided volunteer services with a participating
24 employer under this paragraph violates any provision of this paragraph, then
25 he or she shall be deemed an employee of the participating employer as of the
26 date he or she began providing volunteer services and both the retired member
27 and the participating employer shall be subject to paragraphs (a) to (d) of this

1 subsection for the period of volunteer service;

2 (f) Notwithstanding any provision of this section, any mayor or member of a city
3 legislative body shall not be required to resign from his or her position as
4 mayor or as a member of the city legislative body in order to begin drawing
5 benefits from the systems administered by the Kentucky Retirement Systems
6 or the County Employees Retirement System or subject to any provision of
7 this section as it relates solely to his or her service as a mayor or member of
8 the city legislative body, if the mayor or member of a city legislative body:

- 9 1. Has not participated in the County Employees Retirement System prior
10 to retirement, but is otherwise eligible to retire from the Kentucky
11 Employees Retirement System or the State Police Retirement System; or
12 2. Has been or is participating in the County Employees Retirement System
13 and is at least sixty-two (62) years of age. If a mayor or member of a city
14 legislative body who is at least sixty-two (62) years of age retires from
15 the systems administered by Kentucky Retirement Systems or the
16 County Employees Retirement System but remains in office after his or
17 her effective retirement date, the mayor or member of the city legislative
18 body shall not accrue any further service credit or benefits in the systems
19 administered by Kentucky Retirement Systems or the County Employees
20 Retirement System for any employment occurring on or after the
21 effective retirement date;

22 (g) If a member is receiving a retirement allowance from the County Employees
23 Retirement System and enters into a contract or becomes a leased employee of
24 an employer under contract with an employer participating in the County
25 Employees Retirement System or the Kentucky Retirement Systems:

- 26 1. At any time following retirement, if the Authority determines the
27 employment arrangement does qualify as an independent contractor or

- 1 leased employee, the member may continue to receive his or her
2 retirement allowance during the period of the contract;
- 3 2. Within three (3) months following the member's initial retirement date,
4 if the Authority determines the employment arrangement does not
5 qualify as an independent contractor or leased employee, the member's
6 retirement shall be voided in accordance with paragraph (a) of this
7 subsection;
- 8 3. After three (3) months but within twelve (12) months following the
9 member's initial retirement, if the Authority determines the employment
10 arrangement does not qualify as an independent contractor or leased
11 employee and that a prearranged agreement existed between the member
12 and the agency for the member to return to work with the agency, the
13 member's retirement shall be voided in accordance with paragraph (a) of
14 this subsection; and
- 15 4. After a twelve (12) month period following the member's initial
16 retirement, the member may continue to receive his or her retirement
17 allowance during the period of the contract and the member shall not be
18 required to notify the Authority or submit any documentation for
19 purposes of this section to the Authority. The initiation of a contract or
20 the initial date of the leased employment of a retired member by a
21 participating agency that occurs after twelve (12) months or more
22 following the retired member's retirement date shall not constitute a
23 prearranged agreement under this subsection;
- 24 (h) The Authority shall issue a final determination regarding a certification of the
25 absence of a prearranged agreement or the retired member's qualification as an
26 independent contractor or leased employee as required under this section no
27 later than thirty (30) days after the retired member and participating employer

1 provide all required forms and additional information required by the
2 Authority; and

3 (i) Retired members of one (1) of the systems administered by Kentucky
4 Retirement Systems who are reemployed by an employer in the County
5 Employees Retirement System on or after September 1, 2008, shall not be
6 eligible to earn a second retirement account in the County Employees
7 Retirement System for his or her service to the employer.

8 (5) The Authority shall promulgate administrative regulations to implement the
9 requirements of this section, including incorporating by reference Authority-
10 prescribed forms that a retired member and participating agency shall provide the
11 systems under subsections (1) and (4) of this section.

12 (6) "Reemployment" or "reinstatement" as used in this section shall not include a
13 retired member who has been ordered reinstated by the Personnel Board under
14 authority of KRS 18A.095. A retired member who has been ordered reinstated by
15 the Personnel Board under authority of KRS 18A.095 or by court order or by order
16 of the Human Rights Commission and accepts employment by an agency
17 participating in the Kentucky Employees Retirement System or County Employees
18 Retirement System shall void his or her retirement by reimbursing the system in the
19 full amount of his or her retirement allowance payments received.

20 ➔Section 22. KRS 78.782 is amended to read as follows:

21 (1) The County Employees Retirement System shall be administered by the board of
22 trustees composed of nine (9) members, who shall be selected as follows:

23 (a) Three (3) trustees, who shall be members or retired from the County
24 Employees Retirement System, elected by the members and retired members
25 of the County Employees Retirement System, of which:

26 1. Two (2) shall have a majority of his or her service credit earned in the
27 County Employees Retirement System in a nonhazardous position; and

- 1 2. One (1) shall have a majority of his or her service credit earned in the
- 2 County Employees Retirement System in a hazardous position;
- 3 (b) Six (6) trustees appointed by the Governor, subject to Senate confirmation in
- 4 accordance with KRS 11.160 for each appointment or reappointment. Of the
- 5 six (6) trustees appointed by the Governor:
- 6 1. One (1) trustee with retirement experience shall be appointed from a list
- 7 of three (3) applicants submitted by the Kentucky League of Cities;
- 8 2. One (1) trustee with investment experience shall be appointed from a list
- 9 of three (3) applicants submitted by the Kentucky League of Cities;
- 10 3. One (1) trustee with retirement experience shall be appointed from a list
- 11 of three (3) applicants submitted by the Kentucky Association of
- 12 Counties;
- 13 4. One (1) trustee with investment experience shall be appointed from a list
- 14 of three (3) applicants submitted by the Kentucky Association of
- 15 Counties;
- 16 5. One (1) trustee with retirement experience shall be appointed from a list
- 17 of three (3) applicants submitted by the Kentucky School Boards
- 18 Association; and
- 19 6. One (1) trustee with investment experience shall be appointed from a list
- 20 of three (3) applicants submitted by the Kentucky School Boards
- 21 Association.

22 Notwithstanding the provisions of KRS 12.070(3), the Governor shall appoint
23 each individual trustee described by subparagraphs 1. to 6. of this paragraph
24 solely from each corresponding individual list required to be submitted by the
25 Kentucky League of Cities, the Kentucky Association of Counties, or the
26 Kentucky School Boards Association as provided by subparagraphs 1. to 6. of
27 this paragraph, and the Governor shall not be able to reject the list of

1 applicants submitted, request that another list be provided, or use a list
2 different from the one (1) individual list required to be submitted for each
3 specific appointment or reappointment;

4 (c) For purposes of paragraph (b) of this subsection, a trustee with "investment
5 experience" means an individual who does not have a conflict of interest, as
6 provided by KRS 61.655, and who has at least ten (10) years of experience in
7 one (1) of the following areas of expertise:

- 8 1. A portfolio manager acting in a fiduciary capacity;
- 9 2. A professional securities analyst or investment consultant;
- 10 3. A current or retired employee or principal of a trust institution,
11 investment or finance organization, or endowment fund acting in an
12 investment-related capacity;
- 13 4. A chartered financial analyst in good standing as determined by the CFA
14 Institute; or
- 15 5. A university professor, teaching investment-related studies; and

16 (d) For purposes of paragraph (b) of this subsection, a trustee with "retirement
17 experience" means an individual who does not have a conflict of interest, as
18 provided by KRS 61.655, and who has at least ten (10) years of experience in
19 one (1) of the following areas of expertise:

- 20 1. Experience in retirement or pension plan management;
- 21 2. A certified public accountant with relevant experience in retirement or
22 pension plan accounting;
- 23 3. An actuary with relevant experience in retirement or pension plan
24 consulting;
- 25 4. An attorney licensed to practice law in the Commonwealth of Kentucky
26 with relevant experience in retirement or pension plans; or
- 27 5. A current or former university professor whose primary area of emphasis

1 is economics or finance.

2 (2) The board is hereby granted the powers and privileges of a corporation, including
3 but not limited to the following powers:

- 4 (a) To sue and be sued in its corporate name;
- 5 (b) To make bylaws not inconsistent with the law;
- 6 (c) To conduct the business and promote the purposes for which it was formed;
- 7 (d) Except as provided in KRS 78.790(6), to contract for investment counseling,
8 auditing, medical, and other professional or technical services as required to
9 carry out the obligations of the board subject to the provisions of KRS
10 Chapters 45, 45A, 56, and 57. Actuarial consulting services shall be provided
11 by a firm hired by the Kentucky Public Pensions Authority;
- 12 (e) To purchase fiduciary liability insurance;
- 13 (f) Except as provided in KRS 78.790(6), to acquire, hold, sell, dispose of,
14 pledge, lease, or mortgage, the goods or property necessary to exercise the
15 board's powers and perform the board's duties subject to KRS Chapters 45,
16 45A, and 56; and
- 17 (g) The board shall reimburse any trustee, officer, or employee for any legal
18 expense resulting from a civil action arising out of the performance of his or
19 her official duties. The hourly rate of reimbursement for any contract for legal
20 services under this paragraph shall not exceed the maximum hourly rate
21 provided in the Legal Services Duties and Maximum Rate Schedule
22 promulgated by the Government Contract Review Committee established
23 pursuant to KRS 45A.705, unless a higher rate is specifically approved by the
24 secretary of the Finance and Administration Cabinet or his or her designee.

25 (3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall
26 serve a term of four (4) years or until his or her successor is duly qualified except as
27 otherwise provided in this section. An elected or appointed trustee shall not serve

1 more than three (3) consecutive four (4) year terms. An elected or appointed trustee
2 who has served three (3) consecutive terms may be elected or appointed again after
3 an absence of four (4) years from the board.

4 (4) (a) The trustees selected by the membership of the system shall be elected by
5 ballot. For each trustee to be elected, the board may nominate, not less than
6 six (6) months before a term of office of a trustee is due to expire, three (3)
7 constitutionally eligible individuals.

8 (b) Individuals may be nominated by the system members by presenting to the
9 executive director, not less than four (4) months before a term of office of a
10 trustee is due to expire, a petition, bearing the name, last four (4) digits of the
11 Social Security number, and signature of no less than one-tenth (1/10) of the
12 number voting in the last election by the system members.

13 (c) Within four (4) months of the nominations made in accordance with
14 paragraphs (a) and (b) of this subsection, the executive director shall cause to
15 be prepared an official ballot. The ballot shall carry the name, address, and
16 position title of each individual nominated by the board and by petition.
17 Provision shall also be made for write-in votes.

18 (d) Except as provided by paragraph (j) of this subsection, the ballots shall be
19 distributed to the eligible voters by mail to their last known residence address
20 *on file with the Kentucky Public Pensions Authority. Ballots shall not be*
21 *distributed by mail to member addresses reported as invalid to the Kentucky*
22 *Public Pensions Authority.*

23 (e) The ballots shall be addressed to the County Employees Retirement System in
24 care of a predetermined box number at a United States Post Office or
25 submitted electronically as provided by paragraph (j) of this subsection.
26 Access to this post office box shall be limited to the board's contracted firm.
27 The individual receiving a plurality of votes shall be declared elected.

- 1 (f) The eligible voter shall cast his or her ballot by selecting the candidate of his
2 or her choice. He or she shall sign and mail the ballot or submit the electronic
3 ballot at least thirty (30) days prior to the date the term to be filled is due to
4 expire. The latest mailing date, or date of submission in the case of electronic
5 ballots, shall be provided on the ballot.
- 6 (g) The board's contracted firm shall report in writing the outcome to the chair of
7 the board of trustees. Costs of an election shall be payable from the funds of
8 the system.
- 9 (h) For purposes of this subsection, an eligible voter shall be a person who was a
10 member of the system on December 31 of the year preceding the election year.
- 11 (i) Each individual who submits a request to be nominated by the board under
12 paragraph (a) of this subsection and each individual who is nominated by the
13 membership under paragraph (b) of this subsection shall:
- 14 1. Complete an application developed by the system which shall include
15 but not be limited to a disclosure of any prior felonies and any conflicts
16 of interest that would hinder the individual's ability to serve on the
17 board;
- 18 2. Submit a resume detailing the individual's education and employment
19 history and a cover letter detailing the member's qualifications for
20 serving as trustee to the board; and
- 21 3. Authorize the system to have a criminal background check performed.
22 The criminal background check shall be performed by the Department of
23 Kentucky State Police.
- 24 (j) In lieu of the ballots mailed to members and retired members as provided by
25 this subsection, the systems may by promulgation of administrative regulation
26 pursuant to KRS Chapter 13A conduct trustee elections using electronic
27 ballots, except that the systems shall mail a paper ballot upon request of any

1 eligible voter.

2 (5) (a) Any vacancy which may occur in an appointed position during a term of office
3 shall be filled in the same manner which provides for the selection of the
4 particular trustee, and any vacancy which may occur in an elected position
5 during a term of office shall be filled by appointment by a majority vote of the
6 remaining elected trustees; however, any vacancy shall be filled only for the
7 duration of the unexpired term. In the event of a vacancy of an elected trustee
8 during a term of office, the system shall notify members of the vacancy and
9 the opportunity to be considered for the vacant position. Any vacancy shall be
10 filled within ninety (90) days of the position becoming vacant.

11 (b) Any appointments or reappointments to an appointed position on the board
12 shall be made at least thirty (30) days prior to an appointed member's term of
13 office ending. The Governor's Office shall, with each appointment or
14 reappointment, request lists to be submitted and base selections on those lists
15 solely under the procedures and requirements provided by subsection (1)(b) of
16 this section.

17 (6) (a) Membership on the board of trustees shall not be incompatible with any other
18 office unless a constitutional incompatibility exists. No trustee shall serve in
19 more than one (1) position as trustee on the board and, if a trustee holds more
20 than one (1) position as trustee on the board, he or she shall resign a position.

21 (b) A trustee shall be removed from office upon conviction of a felony or for a
22 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court
23 of competent jurisdiction.

24 (c) A current or former employee of the County Employees Retirement System,
25 Kentucky Retirement Systems, or the Kentucky Public Pensions Authority
26 shall not be eligible to serve as a member of the board.

27 (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive

1 a per diem of eighty dollars (\$80) for each day they are in session or on official
2 duty, and they shall be reimbursed for their actual and necessary expenses in
3 accordance with state administrative regulations and standards.

4 (8) (a) The board shall meet at least once in each quarter of the year and may meet in
5 special session upon the call of the chair or the chief executive officer.

6 (b) The board shall elect a chair and a vice chair. The chair shall not serve more
7 than four (4) consecutive years as chair or vice chair of the board. The vice
8 chair shall not serve more than four (4) consecutive years as chair or vice chair
9 of the board. A trustee who has served four (4) consecutive years as chair or
10 vice chair of the board may be elected chair or vice chair of the board after an
11 absence of two (2) years from the positions.

12 (c) A majority of the trustees shall constitute a quorum, and all actions taken by
13 the board shall be by affirmative vote of a majority of the trustees present.

14 (9) (a) The board of trustees shall appoint or contract for the services of a chief
15 executive officer and general counsel and fix the compensation and other
16 terms of employment for these positions without limitation of the provisions
17 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer
18 shall serve as the legislative and executive adviser to the board. The general
19 counsel shall serve as legal adviser to the board. The chief executive officer
20 and general counsel shall work with the executive director of the Kentucky
21 Public Pensions Authority to carry out the provisions of KRS 78.510 to
22 78.852. The executive director of the Kentucky Public Pensions Authority
23 shall be the chief administrative officer of the board.

24 (b) The board shall require the chief executive officer and may require the general
25 counsel to execute bonds for the faithful performance of his or her duties
26 notwithstanding the limitations of KRS Chapter 62.

27 (c) The board shall have a system of accounting established by the Kentucky

1 Public Pensions Authority.

2 (d) The board shall do all things, take all actions, and promulgate all
3 administrative regulations, not inconsistent with the provisions of KRS 78.510
4 to 78.852, necessary or proper in order to carry out the provisions of KRS
5 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it
6 is hereby declared to be the controlling legislative intent that the provisions of
7 KRS 78.510 to 78.852 conform with federal statute or regulation and meet the
8 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
9 regulations, and other published guidance. Provisions of KRS 78.510 to
10 78.852 which conflict with federal statute or regulation or qualification under
11 26 U.S.C. sec. 401(a), applicable federal regulations, and other published
12 guidance shall not be available. The board shall have the authority to
13 promulgate administrative regulations to conform with federal statute and
14 regulation and to meet the qualification requirements under 26 U.S.C. sec.
15 401(a), including an administrative regulation to comply with 26 U.S.C. sec.
16 401(a)(9).

17 (e) Notwithstanding any other provision of statute to the contrary, including but
18 not limited to any provision of KRS Chapter 12, the Governor shall have no
19 authority to change any provision of KRS 78.510 to 78.852 by executive order
20 or action, including but not limited to reorganizing, replacing, amending, or
21 abolishing the membership of the County Employees Retirement System
22 board of trustees.

23 (10) The chief executive officer and general counsel of the board shall serve during its
24 will and pleasure. Notwithstanding any statute to the contrary, the chief executive
25 officer shall not be considered a legislative agent under KRS 6.611.

26 (11) The Attorney General, or an assistant designated by him or her, may attend each
27 meeting of the board and may receive the agenda, board minutes, and other

1 information distributed to trustees of the board upon request. The Attorney General
2 may act as legal adviser and attorney for the board, and the board may contract for
3 legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

4 (12) (a) The **Kentucky Public Pensions Authority**~~[system]~~ shall publish an annual
5 financial report showing all receipts, disbursements, assets, and liabilities **for**
6 **the systems**. The annual report shall include a copy of an audit conducted in
7 accordance with generally accepted auditing standards. Except as provided by
8 paragraph (b) of this subsection, the board may select **the**~~[an]~~ independent
9 certified public accountant **hired by the Kentucky Public Pensions Authority**
10 or the Auditor of Public Accounts to perform the audit. If the audit is
11 performed by an independent certified public accountant, the Auditor of
12 Public Accounts shall not be required to perform an audit pursuant to KRS
13 43.050(2)(a), but may perform an audit at his or her discretion. All
14 proceedings and records of the board shall be open for inspection by the
15 public. The **Kentucky Public Pensions Authority**~~[system]~~ shall make copies
16 of the audit required by this subsection available for examination by any
17 member, retiree, or beneficiary in the offices of the County Employees
18 Retirement System and in other places as necessary to make the audit
19 available to all members, retirees, and beneficiaries. A copy of the annual
20 audit shall be sent electronically to the Legislative Research Commission no
21 later than ten (10) days after receipt by the board.

22 (b) At least once every five (5) years, the Auditor of Public Accounts shall
23 perform the audit described by this subsection, and the system shall reimburse
24 the Auditor of Public Accounts for all costs of the audit. The Auditor of
25 Public Accounts shall determine which fiscal year during the five (5) year
26 period the audit prescribed by this paragraph will be completed.

27 (13) All expenses incurred by or on behalf of the system and the board in the

1 administration of the system during a fiscal year shall be paid from the retirement
2 allowance account, including any administrative expenses for the Kentucky Public
3 Pensions Authority that are assigned to the County Employees Retirement System
4 by KRS 61.505. The board shall submit any administrative expenses that are
5 specific to the County Employees Retirement System that are not otherwise covered
6 by KRS 61.505(11)(a).

7 (14) Except as provided under subsection (16) of this section or KRS 61.665, any person
8 adversely affected by a decision of the board involving KRS 78.510 to 78.852 may
9 appeal the decision of the board to the Franklin Circuit Court within sixty (60) days
10 of the board action.

11 (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her
12 duties as a member of a committee:

- 13 1. In good faith;
- 14 2. On an informed basis; and
- 15 3. In a manner he or she honestly believes to be in the best interest of the
16 County Employees Retirement System.

17 (b) A trustee discharges his or her duties on an informed basis if, when he or she
18 makes an inquiry into the business and affairs of the system or into a
19 particular action to be taken or decision to be made, he or she exercises the
20 care an ordinary prudent person in a like position would exercise under similar
21 circumstances.

22 (c) In discharging his or her duties, a trustee may rely on information, opinions,
23 reports, or statements, including financial statements and other financial data,
24 if prepared or presented by:

- 25 1. One (1) or more officers or employees of the system or
26 Authority~~authority~~ whom the trustee honestly believes to be reliable
27 and competent in the matters presented;

- 1 2. Legal counsel, public accountants, actuaries, or other persons as to
2 matters the trustee honestly believes are within the person's professional
3 or expert competence; or
- 4 3. A committee of the board of trustees of which he or she is not a member
5 if the trustee honestly believes the committee merits confidence.
- 6 (d) A trustee shall not be considered as acting in good faith if he or she has
7 knowledge concerning the matter in question that makes reliance otherwise
8 permitted by paragraph (c) of this subsection unwarranted.
- 9 (e) Any action taken as a trustee, or any failure to take any action as a trustee,
10 shall not be the basis for monetary damages or injunctive relief unless:
- 11 1. The trustee has breached or failed to perform the duties of the trustee's
12 office in compliance with this section; and
- 13 2. In the case of an action for monetary damages, the breach or failure to
14 perform constitutes willful misconduct or wanton or reckless disregard
15 for human rights, safety, or property.
- 16 (f) A person bringing an action for monetary damages under this section shall
17 have the burden of proving by clear and convincing evidence the provisions of
18 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
19 breach or failure to perform was the legal cause of damages suffered by the
20 system.
- 21 (g) In discharging his or her administrative duties under this section, a trustee
22 shall strive to administer the system in an efficient and cost-effective manner
23 for the taxpayers of the Commonwealth of Kentucky and shall take all actions
24 available under the law to contain costs for the trusts, including costs for
25 participating employers, members, and retirees.
- 26 (16) When an order by the system substantially impairs the benefits or rights of a
27 member, retired member, or recipient, except action which relates to entitlement to

1 disability benefits, *or when an employer disagrees with an order of the system as*
2 *provided by KRS 61.598*, the affected member, retired member,~~[-or]~~ recipient, *or*
3 *employer* may request a hearing to be held in accordance with KRS Chapter 13B.
4 The board may establish an appeals committee whose members shall be appointed
5 by the chair and who shall have authority to act upon the recommendations and
6 reports of the hearing officer on behalf of the board. The member, retired member,
7 recipient, or employer aggrieved by a final order of the board following the hearing
8 may appeal the decision to the Franklin Circuit Court, in accordance with KRS
9 Chapter 13B. The board may establish a joint administrative appeals committee
10 with the Kentucky Retirement Systems and may also establish a joint disability
11 appeals committee with the Kentucky Retirement Systems.

12 (17) The board shall establish a formal trustee education program for all trustees of the
13 board. The program shall include but not be limited to the following:

14 (a) A required orientation program for all new trustees elected or appointed to the
15 board. The orientation program shall include training on:

- 16 1. Benefits and benefits administration;
- 17 2. Investment concepts, policies, and current composition and
18 administration of system investments;
- 19 3. Laws, bylaws, and administrative regulations pertaining to the system
20 and to fiduciaries; and
- 21 4. Actuarial and financial concepts pertaining to the system.

22 If a trustee fails to complete the orientation program within one (1) year from
23 the beginning of his or her first term on the board, the system shall withhold
24 payment of the per diem and travel expenses due to the board member under
25 this section until the trustee has completed the orientation program;

26 (b) Annual required training for board members on the administration, benefits,
27 financing, and investing of the system. If a trustee fails to complete the annual

1 required training during the calendar or fiscal year, the retirement system shall
2 withhold payment of the per diem and travel expenses due to the board
3 member under this section until the board member has met the annual training
4 requirements; and

5 (c) The system shall incorporate by reference in an administrative regulation,
6 pursuant to KRS 13A.2251, the trustee education program.

7 (18) In order to improve public transparency regarding the administration of the system,
8 the board of trustees shall adopt a best practices model by posting the following
9 information to the Kentucky Public Pensions Authority's Web site and shall make
10 available to the public:

11 (a) Meeting notices and agendas for all meetings of the board. Notices and
12 agendas shall be posted to the Kentucky Public Pensions Authority's Web site
13 at least seventy-two (72) hours in advance of the board or committee
14 meetings, except in the case of special or emergency meetings as provided by
15 KRS 61.823;

16 (b) The Comprehensive Annual Financial Report with the information as follows:

- 17 1. A general overview and update on the system by the executive director;
- 18 2. A listing of the board of trustees;
- 19 3. A listing of key staff;
- 20 4. An organizational chart;
- 21 5. Financial information, including a statement of plan net assets, a
22 statement of changes in plan net assets, an actuarial value of assets, a
23 schedule of investments, a statement of funded status and funding
24 progress, and other supporting data;
- 25 6. Investment information, including a general overview, a list of the
26 system's professional consultants, a total net of fees return on system
27 investments over a historical period, an investment summary, contracted

- 1 investment management expenses, transaction commissions, and a
2 schedule of investments;
- 3 7. The annual actuarial valuation report on the pension benefit and the
4 medical insurance benefit; and
- 5 8. A general statistical section, including information on contributions,
6 benefit payouts, and retirement system demographic data;
- 7 (c) All external audits;
- 8 (d) All board minutes or other materials that require adoption or ratification by
9 the board of trustees. The items listed in this paragraph shall be posted within
10 seventy-two (72) hours of adoption or ratification of the board;
- 11 (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
- 12 (f) The system's summary plan description;
- 13 (g) A document containing an unofficial copy of the statutes governing the
14 system;
- 15 (h) A listing of the members of the board of trustees and membership on each
16 committee established by the board, including any investment committees;
- 17 (i) All investment holdings in aggregate, fees, and commissions for each fund
18 administered by the board, which shall be updated on a quarterly basis for
19 fiscal years beginning on or after July 1, 2021. The system shall request from
20 all managers, partnerships, and any other available sources all information
21 regarding fees and commissions and shall, based on the requested information
22 received:
- 23 1. Disclose the dollar value of fees and commissions paid to each
24 individual manager or partnership;
- 25 2. Disclose the dollar value of any profit sharing, carried interest, or any
26 other partnership incentive arrangements, partnership agreements, or any
27 other partnership expenses received by or paid to each manager or

1 partnership; and

2 3. As applicable, report each fee or commission by manager or partnership
3 consistent with standards established by the Institutional Limited
4 Partners Association (ILPA).

5 In addition to the requirements of this paragraph, the system shall also
6 disclose the name and address of all individual underlying managers or
7 partners in any fund of funds in which system assets are invested;

8 (j) An update of net of fees investment returns, asset allocations, and the
9 performance of the funds against benchmarks adopted by the board for each
10 fund, for each asset class administered by the board, and for each manager.
11 The update shall be posted on a quarterly basis for fiscal years beginning on or
12 after July 1, 2021;

13 (k) A searchable database of the system's expenditures and a listing of each
14 individual employed by the system along with the employee's salary or wages.
15 In lieu of posting the information required by this paragraph to the Kentucky
16 Public Pensions Authority's Web site, the system may provide the information
17 through a Web site established by the executive branch to inform the public
18 about public employee salaries and wages;

19 (l) All contracts or offering documents for services, goods, or property purchased
20 or utilized by the system for contracts or offering documents entered into on
21 or after July 1, 2021; and

22 (m) Information regarding the system's financial and actuarial condition that is
23 easily understood by the members, retired members, and the public.

24 (19) Notwithstanding the requirements of subsection (18) of this section, the system
25 shall not be required to furnish information that is protected under KRS 61.661,
26 exempt under KRS 61.878, or that, if disclosed, would compromise the system's
27 ability to competitively invest in real estate or other asset classes, except that no

1 provision of this section or KRS 61.878 shall exclude disclosure and review of all
2 contracts, including investment contracts, by the board, the Auditor of Public
3 Accounts, and the Government Contract Review Committee established pursuant to
4 KRS 45A.705 or the disclosure of investment fees and commissions as provided by
5 this section. If any public record contains material which is not excepted under this
6 section, the system shall separate the excepted material by removal, segregation, or
7 redaction, and make the nonexcepted material available for examination.

8 (20) Notwithstanding any other provision of KRS 78.510 to 78.852 to the contrary, no
9 funds of the County Employees Retirement System, including fees and
10 commissions paid to an investment manager, private fund, or company issuing
11 securities, who manages systems assets, shall be used to pay fees and commissions
12 to placement agents. For purposes of this subsection, "placement agent" means a
13 third-party individual, who is not an employee, or firm, wholly or partially owned
14 by the entity being hired, who solicits investments on behalf of an investment
15 manager, private fund, or company issuing securities.

16 ➔Section 23. KRS 18A.225 is amended to read as follows:

17 (1) (a) The term "employee" for purposes of this section means:

- 18 1. Any person, including an elected public official, who is regularly
19 employed by any department, office, board, agency, or branch of state
20 government; or by a public postsecondary educational institution; or by
21 any city, urban-county, charter county, county, or consolidated local
22 government, whose legislative body has opted to participate in the state-
23 sponsored health insurance program pursuant to KRS 79.080; and who
24 is either a contributing member to any one (1) of the retirement systems
25 administered by the state, including but not limited to the Kentucky
26 Retirement Systems, County Employees Retirement System, Kentucky
27 Teachers' Retirement System, the Legislators' Retirement Plan, or the

- 1 Judicial Retirement Plan; or is receiving a contractual contribution from
2 the state toward a retirement plan; or, in the case of a public
3 postsecondary education institution, is an individual participating in an
4 optional retirement plan authorized by KRS 161.567; or is eligible to
5 participate in a retirement plan established by an employer who ceases
6 participating in the Kentucky Employees Retirement System pursuant to
7 KRS 61.522 whose employees participated in the health insurance plans
8 administered by the Personnel Cabinet prior to the employer's effective
9 cessation date in the Kentucky Employees Retirement System;
- 10 2. Any certified or classified employee of a local board of education;
- 11 3. Any elected member of a local board of education;
- 12 4. Any person who is a present or future recipient of a retirement
13 allowance from the Kentucky Retirement Systems, County Employees
14 Retirement System, Kentucky Teachers' Retirement System, the
15 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
16 Kentucky Community and Technical College System's optional
17 retirement plan authorized by KRS 161.567, except that a person who is
18 receiving a retirement allowance and who is age sixty-five (65) or older
19 shall not be included, with the exception of persons covered under
20 subsection (2)(b)3. of Section 14 of this Act and subsection (2)(b)3. of
21 Section 20 of this Act ~~[KRS 61.702(4)(c)]~~, unless he or she is actively
22 employed pursuant to subparagraph 1. of this paragraph; and
- 23 5. Any eligible dependents and beneficiaries of participating employees
24 and retirees who are entitled to participate in the state-sponsored health
25 insurance program;
- 26 (b) The term "health benefit plan" for the purposes of this section means a health
27 benefit plan as defined in KRS 304.17A-005;

1 (c) The term "insurer" for the purposes of this section means an insurer as defined
2 in KRS 304.17A-005; and

3 (d) The term "managed care plan" for the purposes of this section means a
4 managed care plan as defined in KRS 304.17A-500.

5 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
6 recommendation of the secretary of the Personnel Cabinet, shall procure, in
7 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
8 from one (1) or more insurers authorized to do business in this state, a group
9 health benefit plan that may include but not be limited to health maintenance
10 organization (HMO), preferred provider organization (PPO), point of service
11 (POS), and exclusive provider organization (EPO) benefit plans encompassing
12 all or any class or classes of employees. With the exception of employers
13 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
14 employers of any class of employees or former employees shall enter into a
15 contract with the Personnel Cabinet prior to including that group in the state
16 health insurance group. The contracts shall include but not be limited to
17 designating the entity responsible for filing any federal forms, adoption of
18 policies required for proper plan administration, acceptance of the contractual
19 provisions with health insurance carriers or third-party administrators, and
20 adoption of the payment and reimbursement methods necessary for efficient
21 administration of the health insurance program. Health insurance coverage
22 provided to state employees under this section shall, at a minimum, contain
23 the same benefits as provided under Kentucky Kare Standard as of January 1,
24 1994, and shall include a mail-order drug option as provided in subsection
25 (13) of this section. All employees and other persons for whom the health care
26 coverage is provided or made available shall annually be given an option to
27 elect health care coverage through a self-funded plan offered by the

1 Commonwealth or, if a self-funded plan is not available, from a list of
2 coverage options determined by the competitive bid process under the
3 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
4 during annual open enrollment.

5 (b) The policy or policies shall be approved by the commissioner of insurance and
6 may contain the provisions the commissioner of insurance approves, whether
7 or not otherwise permitted by the insurance laws.

8 (c) Any carrier bidding to offer health care coverage to employees shall agree to
9 provide coverage to all members of the state group, including active
10 employees and retirees and their eligible covered dependents and
11 beneficiaries, within the county or counties specified in its bid. Except as
12 provided in subsection (20) of this section, any carrier bidding to offer health
13 care coverage to employees shall also agree to rate all employees as a single
14 entity, except for those retirees whose former employers insure their active
15 employees outside the state-sponsored health insurance program and as
16 otherwise provided in subsection (2)(b)3.b. of Section 14 of this Act and
17 subsection (2)(b)3.b. of Section 20 of this Act.

18 (d) Any carrier bidding to offer health care coverage to employees shall agree to
19 provide enrollment, claims, and utilization data to the Commonwealth in a
20 format specified by the Personnel Cabinet with the understanding that the data
21 shall be owned by the Commonwealth; to provide data in an electronic form
22 and within a time frame specified by the Personnel Cabinet; and to be subject
23 to penalties for noncompliance with data reporting requirements as specified
24 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
25 to protect the confidentiality of each individual employee; however,
26 confidentiality assertions shall not relieve a carrier from the requirement of
27 providing stipulated data to the Commonwealth.

- 1 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
2 for timely analysis of data received from carriers and, to the extent possible,
3 provide in the request-for-proposal specifics relating to data requirements,
4 electronic reporting, and penalties for noncompliance. The Commonwealth
5 shall own the enrollment, claims, and utilization data provided by each carrier
6 and shall develop methods to protect the confidentiality of the individual. The
7 Personnel Cabinet shall include in the October annual report submitted
8 pursuant to the provisions of KRS 18A.226 to the Governor, the General
9 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
10 financial stability of the program, which shall include but not be limited to
11 loss ratios, methods of risk adjustment, measurements of carrier quality of
12 service, prescription coverage and cost management, and statutorily required
13 mandates. If state self-insurance was available as a carrier option, the report
14 also shall provide a detailed financial analysis of the self-insurance fund
15 including but not limited to loss ratios, reserves, and reinsurance agreements.
- 16 (f) If any agency participating in the state-sponsored employee health insurance
17 program for its active employees terminates participation and there is a state
18 appropriation for the employer's contribution for active employees' health
19 insurance coverage, then neither the agency nor the employees shall receive
20 the state-funded contribution after termination from the state-sponsored
21 employee health insurance program.
- 22 (g) Any funds in flexible spending accounts that remain after all reimbursements
23 have been processed shall be transferred to the credit of the state-sponsored
24 health insurance plan's appropriation account.
- 25 (h) Each entity participating in the state-sponsored health insurance program shall
26 provide an amount at least equal to the state contribution rate for the employer
27 portion of the health insurance premium. For any participating entity that used

1 the state payroll system, the employer contribution amount shall be equal to
2 but not greater than the state contribution rate.

3 (3) The premiums may be paid by the policyholder:

4 (a) Wholly from funds contributed by the employee, by payroll deduction or
5 otherwise;

6 (b) Wholly from funds contributed by any department, board, agency, public
7 postsecondary education institution, or branch of state, city, urban-county,
8 charter county, county, or consolidated local government; or

9 (c) Partly from each, except that any premium due for health care coverage or
10 dental coverage, if any, in excess of the premium amount contributed by any
11 department, board, agency, postsecondary education institution, or branch of
12 state, city, urban-county, charter county, county, or consolidated local
13 government for any other health care coverage shall be paid by the employee.

14 (4) If an employee moves his or her place of residence or employment out of the service
15 area of an insurer offering a managed health care plan, under which he or she has
16 elected coverage, into either the service area of another managed health care plan or
17 into an area of the Commonwealth not within a managed health care plan service
18 area, the employee shall be given an option, at the time of the move or transfer, to
19 change his or her coverage to another health benefit plan.

20 (5) No payment of premium by any department, board, agency, public postsecondary
21 educational institution, or branch of state, city, urban-county, charter county,
22 county, or consolidated local government shall constitute compensation to an
23 insured employee for the purposes of any statute fixing or limiting the
24 compensation of such an employee. Any premium or other expense incurred by any
25 department, board, agency, public postsecondary educational institution, or branch
26 of state, city, urban-county, charter county, county, or consolidated local
27 government shall be considered a proper cost of administration.

- 1 (6) The policy or policies may contain the provisions with respect to the class or classes
2 of employees covered, amounts of insurance or coverage for designated classes or
3 groups of employees, policy options, terms of eligibility, and continuation of
4 insurance or coverage after retirement.
- 5 (7) Group rates under this section shall be made available to the disabled child of an
6 employee regardless of the child's age if the entire premium for the disabled child's
7 coverage is paid by the state employee. A child shall be considered disabled if he or
8 she has been determined to be eligible for federal Social Security disability benefits.
- 9 (8) The health care contract or contracts for employees shall be entered into for a period
10 of not less than one (1) year.
- 11 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
12 State Health Insurance Subscribers to advise the secretary or the secretary's designee
13 regarding the state-sponsored health insurance program for employees. The
14 secretary shall appoint, from a list of names submitted by appointing authorities,
15 members representing school districts from each of the seven (7) Supreme Court
16 districts, members representing state government from each of the seven (7)
17 Supreme Court districts, two (2) members representing retirees under age sixty-five
18 (65), one (1) member representing local health departments, two (2) members
19 representing the Kentucky Teachers' Retirement System, and three (3) members at
20 large. The secretary shall also appoint two (2) members from a list of five (5) names
21 submitted by the Kentucky Education Association, two (2) members from a list of
22 five (5) names submitted by the largest state employee organization of nonschool
23 state employees, two (2) members from a list of five (5) names submitted by the
24 Kentucky Association of Counties, two (2) members from a list of five (5) names
25 submitted by the Kentucky League of Cities, and two (2) members from a list of
26 names consisting of five (5) names submitted by each state employee organization
27 that has two thousand (2,000) or more members on state payroll deduction. The

1 advisory committee shall be appointed in January of each year and shall meet
2 quarterly.

3 (10) Notwithstanding any other provision of law to the contrary, the policy or policies
4 provided to employees pursuant to this section shall not provide coverage for
5 obtaining or performing an abortion, nor shall any state funds be used for the
6 purpose of obtaining or performing an abortion on behalf of employees or their
7 dependents.

8 (11) Interruption of an established treatment regime with maintenance drugs shall be
9 grounds for an insured to appeal a formulary change through the established appeal
10 procedures approved by the Department of Insurance, if the physician supervising
11 the treatment certifies that the change is not in the best interests of the patient.

12 (12) Any employee who is eligible for and elects to participate in the state health
13 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
14 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
15 state health insurance contribution toward health care coverage as a result of any
16 other employment for which there is a public employer contribution. This does not
17 preclude a retiree and an active employee spouse from using both contributions to
18 the extent needed for purchase of one (1) state sponsored health insurance policy for
19 that plan year.

20 (13) (a) The policies of health insurance coverage procured under subsection (2) of
21 this section shall include a mail-order drug option for maintenance drugs for
22 state employees. Maintenance drugs may be dispensed by mail order in
23 accordance with Kentucky law.

24 (b) A health insurer shall not discriminate against any retail pharmacy located
25 within the geographic coverage area of the health benefit plan and that meets
26 the terms and conditions for participation established by the insurer, including
27 price, dispensing fee, and copay requirements of a mail-order option. The

1 retail pharmacy shall not be required to dispense by mail.

2 (c) The mail-order option shall not permit the dispensing of a controlled
3 substance classified in Schedule II.

4 (14) The policy or policies provided to state employees or their dependents pursuant to
5 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
6 aid-related services for insured individuals under eighteen (18) years of age, subject
7 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
8 pursuant to KRS 304.17A-132.

9 (15) Any policy provided to state employees or their dependents pursuant to this section
10 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
11 consistent with KRS 304.17A-142.

12 (16) Any policy provided to state employees or their dependents pursuant to this section
13 shall provide coverage for obtaining amino acid-based elemental formula pursuant
14 to KRS 304.17A-258.

15 (17) If a state employee's residence and place of employment are in the same county, and
16 if the hospital located within that county does not offer surgical services, intensive
17 care services, obstetrical services, level II neonatal services, diagnostic cardiac
18 catheterization services, and magnetic resonance imaging services, the employee
19 may select a plan available in a contiguous county that does provide those services,
20 and the state contribution for the plan shall be the amount available in the county
21 where the plan selected is located.

22 (18) If a state employee's residence and place of employment are each located in counties
23 in which the hospitals do not offer surgical services, intensive care services,
24 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
25 services, and magnetic resonance imaging services, the employee may select a plan
26 available in a county contiguous to the county of residence that does provide those
27 services, and the state contribution for the plan shall be the amount available in the

1 county where the plan selected is located.

2 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
3 in the best interests of the state group to allow any carrier bidding to offer health
4 care coverage under this section to submit bids that may vary county by county or
5 by larger geographic areas.

6 (20) Notwithstanding any other provision of this section, the bid for proposals for health
7 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
8 the statewide rating structure provided in calendar year 2003 and a bid scenario that
9 allows for a regional rating structure that allows carriers to submit bids that may
10 vary by region for a given product offering as described in this subsection:

11 (a) The regional rating bid scenario shall not include a request for bid on a
12 statewide option;

13 (b) The Personnel Cabinet shall divide the state into geographical regions which
14 shall be the same as the partnership regions designated by the Department for
15 Medicaid Services for purposes of the Kentucky Health Care Partnership
16 Program established pursuant to 907 KAR 1:705;

17 (c) The request for proposal shall require a carrier's bid to include every county
18 within the region or regions for which the bid is submitted and include but not
19 be restricted to a preferred provider organization (PPO) option;

20 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
21 carrier all of the counties included in its bid within the region. If the Personnel
22 Cabinet deems the bids submitted in accordance with this subsection to be in
23 the best interests of state employees in a region, the cabinet may award the
24 contract for that region to no more than two (2) carriers; and

25 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
26 other requirements or criteria in the request for proposal.

27 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or

1 after July 12, 2006, to public employees pursuant to this section which provides
2 coverage for services rendered by a physician or osteopath duly licensed under KRS
3 Chapter 311 that are within the scope of practice of an optometrist duly licensed
4 under the provisions of KRS Chapter 320 shall provide the same payment of
5 coverage to optometrists as allowed for those services rendered by physicians or
6 osteopaths.

7 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or
8 after June 29, 2021, to public employees pursuant to this section shall comply with:
9 (a) KRS 304.12-237;
10 (b) KRS 304.17A-270 and 304.17A-525;
11 (c) KRS 304.17A-600 to 304.17A-633;
12 (d) KRS 205.593;
13 (e) KRS 304.17A-700 to 304.17A-730;
14 (f) KRS 304.14-135;
15 (g) KRS 304.17A-580 and 304.17A-641;
16 (h) KRS 304.99-123;
17 (i) KRS 304.17A-138; and
18 (j) Administrative regulations promulgated pursuant to statutes listed in this
19 subsection.

20 (23) Any fully insured health benefit plan or self-insured plan issued or renewed on or
21 after January 1, 2022, to public employees pursuant to this section shall comply
22 with KRS 304.17A-148.

23 ➔Section 24. The amendments to subsection (21)(b) of Section 3 of this Act and
24 subsection (21)(b) of Section 16 of this Act shall be retroactive to March 1, 2020, and
25 shall for purposes of anyone employed or contracted by health departments during and as
26 a result of the state of emergency declared by the Governor of Kentucky during the
27 COVID-19 pandemic apply to any such employment or contracts through December 31,

1 2022, as determined by the health department and regardless of whether or not the state of
2 emergency has expired or been lifted.

3 ➔Section 25. Whereas the prompt administration of retirement benefits by the
4 Kentucky Public Pensions Authority is a matter of the utmost importance to state and
5 local employees and retirees and the Commonwealth, an emergency is declared to exist,
6 and this Act takes effect upon its passage and approval by the Governor or upon its
7 otherwise becoming law.